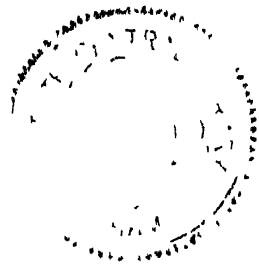
A HUNDRED YEARS OF LOCAL SELF-GOVERNMENT IN ASSAM



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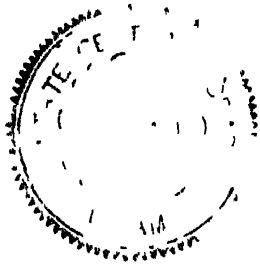

To

Shri BIMALA PRASAD CHALIHA

Satyam, Sivam, Sundaram

(Truth, Purity, Beauty)

PREFACE TO THE SECOND EDITION

A HUNDRED YEARS OF LOCAL SELF-GOVERNMENT IN ASSAM is the only book on the subject based on original sources. These sources have not been consulted by any one so far I know. The material was collected from (a) *Letters to the Government of Bengal* and *Letters from the Government of Bengal* issued from the Judicial Department during the years 1826 to 1874; (b) *Bundles* which contain all sorts of papers relating to the period 1826 to 1874; (c) *Proceedings of the Board of Revenue and of the District Officers 1826 to 1874;* (d) *Proceedings of the Home Department (A. Files) of the Government of India and of the Government of Assam from 1874 to 1905;* (e) *the Proceedings of the Local and Municipal Department for the period* 1905 to 1935 and *Assam Gazette* 1874 to 1965, all available with the Keeper of Records, Civil Secretariat, Shillong. The *Proceedings of the Bengal Legislative Council* 1861 to 1864 were consulted in the National Library, Calcutta and the *Proceedings of the Assam Legislative Council and Assembly* 1913 to 1964 in the Assembly Library, Shillong and the *Annual Reports on the Working of Local and Municipal Boards* from 1884 to 1950 in the office of the Commissioner, Gauhati. Two valuable reports "*A Report on Assam*", popularly known as Mills Report and a *Report on the Khasis* were consulted in the India Office, London in May 1962. The *Minutes of the Meetings* of the Municipal Boards, Gauhati, Nalbari, Tinsukia, Dibrugarh, Sibsagar, Jorhat and Golaghat were consulted in their respective offices. In addition several chairmen of the local authorities were interviewed in all the places which the present writer visited.

The secondary sources were consulted in the Indiana University Bloomington, Indiana, U.S.A., and the University Library, Madras and the University Library, Gauhati.

This work could not have been written without the wholehearted support of a great many people. Almost ever one the present writer met in this connection, helped him to

a better understanding of the problems connected with local self-government in Assam. The writer is very much aware of his tremendous debt of gratitude to those many helpful people and hopes that they realise that it is practically impossible to thank them all by name. The writer also hopes that they will forgive him for acknowledging his gratefulness to Prof. M. Venkatarangiah, his old teacher and Prof. A. B. Lal, Professor of Politics, Allahabad University for reading the typescript with minute care and offering suggestions for improvement, to Mr. P. C. Sharma, Keeper of Records, Shillong, for permitting him to have access to records, to Mr. B. W. Roy, I. A. S., Secretary to Government, Tribal Affairs, for permitting him to make use of the material contained in his paper read at the Assam Political Science Conference, to Dr. Charles H. Hyneman. Distinguished Service Professor of Government, Indiana University, Bloomington, U.S.A. for permitting him to use his library, and to Dr. M. N. Goswami, the present Vice-Chancellor, Gauhati University for discussing with him some matters connected with local finance. Of an extremely pleasant and informative nature, were the many hours of discussion over a cup of boiled tea, served by the genial Khasi ladies, with Mr. B. D. Dutta, Assistant Development Commissioner. In the end I must express my gratefulness to Bani Prakash the enterprising publisher, for undertaking the publication of this work.

Gauhati University
August 15, 1965.

V. VENKATA RAO

Preface to the Third Edition:

This edition has been thoroughly revised and brought uptodate.

Gauhati University
August 15, 1967.

V. VENKATA RAO

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ABBREVIATIONS

Hopkinson: Henry Hopkinson, Commissioner of Assam, 1864
Keatinge: Col. R. H. Keatinge, Chief Commissioner, 1874-1878
Bayley: Sir Stuart C. Bayley, Chief Commissioner, 1878-1881
Elliot: Sir Charles Elliot, Chief Commissioner, 1881-1885
Ward: Sir William Ward, Chief Commissioner, 1885-1887
Fitzpatrick: Sir D. Fitzpatrick, Chief Commissioner, 1887-89
Quinton: Mr. Quinton, Chief Commissioner, 1889-91
Ward: Sir William E. Ward, Chief Commissioner, 1891-96
Cotton: Sir Henry J. S. Cotton, Chief Commissioner, 1896-1902
Fuller: Mr. John Bamfylde Fuller, Chief Commissioner, 1902-05
Earle: Sir Archdale Earle, Chief Commissioner, 1912-18
Municipal Acts: Bengal Municipal Acts, 1876, 1884, Assam Municipal Act, 1923, 1956. The Town Improvements Acts 1850, 1864 and 1868
Local Boards Act: The Assam Local Self-Government Acts, 1915 and 1968
Panchayat Act: The Assam Rural Self-Government Act, 1926. The Assam Rural Panchayat Act, 1948. The Assam Panchayat Act, 1959
Local Authorities: Municipal Local and Panchayat Boards
Commissioner: The Commissioner of the Division concerned
A. L. C. P.: Proceedings of the Assam Legislative Council
A. L. A. P.: Proceedings of the Assam Legislative Assembly
A. R.: Annual Reports (L) Local Board (M) Municipal Board
D. C.: Deputy Commissioner, Sub-Divisional Officer where there is no Deputy Commissioner
M. L. C.: Member of the Legislative Council
M. L. A.: Member of the Legislative Assembly
M. P.: Member of Parliament
Decentralization Commission: Royal Commission on Decentralization (R. D. C.)
P. W. D.: Public Works Department
K. and J. Hills: Khasi and Jaintia Hills
Lakh: One hundred thousand
Gaonbura: Village headman
Dighalipukhuri: A tank in Gauhati
Pathsala: Village vernacular school
Deputy Commissioner includes Subdivisional Officer

PART I HISTORICAL BACKGROUND

Local Institutions constitute the strength of free nations. A nation may establish a system of free government, but without municipal institutions it cannot have the spirit of liberty.

CHAPTER I

PROBLEMS OF LOCAL SELF-GOVERNMENT

The study of local self-Government may be approached by various methods. The first is historical. It is the most usual method adopted. The one great advantage of it is that while dealing with events of every day life it gives a sense of reality. The second method is the administrative. The administrator views things from the point of view of efficiency. The third is the legal approach which enables one to understand fully the legal responsibilities and difficulties concerning a particular service. The fourth is the comparative which is illuminating and attractive though it has certain inherent defects. It enables us to know what is practicable and what is impracticable. The fifth is the political. Politicians may look at local government institutions as convenient instruments for the satisfaction of their ambitions. Above all, there are the economic and the philosphical approach. The approach that the present writer has adoted is historical, analytical and critical.

What is local government ? Local government is that part of the State Government dealing mainly with local affairs, administered by authorities subordinate to the State Government but elected independently of the State authority by qualified residents. The State Government has no jurisdiction within the local area in respect of matters administered by the elected representatives of that area. Thus, each local authority derives its being from a portion of the same electorate from which the State Assembly derives its authority. Local government, in its true form is that part of the whole government of the country which has not been surrendered by localities to the State but

has ever remained in the hands of the persons who brought it into existence. The Khasi and Cola political institutions are outstanding examples of the kind. This, however, is not true of the present day local authorities in Assam. The jurist may triumphantly point out that the local authorities in Assam, as in other states, are simply the creation of the State legislature and that they cannot do many things without the sanction of the State Government.

Characteristics of Local Authorities : Local authorities are of two kinds, local and quasi-local. The first is older and the second is that which is carved out for special purposes. Whatever may be the class to which a local authority belongs it must have certain characteristics.

1. It must have an existence as an organized entity. In other words, a local authority must be a corporation. A corporation has legal powers and functions. The symbol of its authority is the common seal without which many a formal act of the corporation is not legal.

2. A local authority must have a governmental character. Its officers must be elected by the residents of the locality.

3. A local authority must have substantial autonomy, considerable fiscal and administrative independence. This generally includes the right to determine its own budget, to levy and collect taxes for local purposes, to float loans subject to state law and supervision.

4. A local authority deals only with local problems. The implication of this principle is that local problems should be dealt with by persons who are affected by them. As a citizen of Gauhati I am deeply interested in the Dighalipukuri. Not only am I but one hundred thousand others are also interested in it. Its maintenance and managment are matters which must be left to the inhabitants of Gauhati. If the Gauhati Municipal board decides to give a free show of Kalidas's Sakuntala to the children studying in its schools, its own resolution should be enough. Outside sanction should not be necessary. If it decides to provide free mid-day meal to the children who are indigent and if it can find funds for the purpose, it should not be compelled to seek the sanction of the Government of Assam for the purpose. The merit of this arrangement is that such decentrali-

zation of functions generates local initiative and enables the management of local affairs economically and efficiently. Opponents of this theory may argue that this principle may ultimately lead to the disintegration of the State. Most of the grass root devotees however, stop short of such an extreme position and are content generally to rest their case on the principle of local control of local affairs.

5. A local authority is financed to a substantial extent by the inhabitants of the locality. A local authority which is wholly or mainly dependent on grant-in-aid cannot be expected to possess fiscal and administrative independence.

6. Local government is a part-time job. This was hundred percent true a hundred years ago and it is true to some extent even today. Many panchayats do not have a full time employee at all. A single person performs a great variety of functions.

7. Local government work is wholly amateur. It is amateur in two senses. First, most of the work is done by nonprofessional people ; second, the work is quite casual.

8. Local government work is highly personal. It is personal in two senses. First, there is less red-tapism. Most of the work is done through personal discussion. Second, it takes the character of eleemosynary enterprise. A clerk is kept on the pay rolls because he would be unemployed if he is thrown out. For a long time, there was no fixed age at which the employees had to retire.

9. The nature of local government is different from that of State Government. A student of political science draws a distinction between government, politics and administration. These distinctions are largely absent in local government, particularly in panchayats. It is in the larger units that this distinction is somewhat sharper. A panchayat is, therefore, preeminently the domain of the generalist as the State Government is the domain of the specialist. It is true that the State Government also requires the generalist just as the local authorities require specialists. But we find the generalists in plenty in panchayats which constitute a vast majority of the local authorities.

10. Local government has only a derivative authority. Its powers and functions are determined by the State Legislature which may alter them at any time. Thus, local government,

though it may have its own powers, is not really independent. If a village or town can be independent it will be a city state.

11. Local Governnment is not the same thing as State Government. The State has a separate legislature and a separate executive. The State executive is no doubt closely integrated with the legislature. But the legislative assembly does not govern. The function of the legislative assembly is legislative. It is the executive, the council of ministers, that governs assisted by the civil service. The legislative assembly cannot direct a Deputy Commissioner to do a particular thing because he is not appointed by the latter. If a member of the Assembly wants information on any matter he must ask the minister concerned and not the civil servant. A civil servant is perfectly justified in refusing to give information to any member of the Assembly if a direct approach is made to him. But the reverse is the case with regard to most of the local authorities. A local authority is both a legislative and an executive body. It is true that in some places executive functions are entrusted to an independent executive officer. But, generally, the executive and legislative spheres have not been clearly demarcated. Even if a line can be drawn, it is abundantly clear that the main job of a local authority is executive. The board has the power and the duty to run the various services that it administers. There is a close association between the members of the board and the officials employed by it. Thus local government is an entirely different kind of institution from that of the State Government.

12. There is much popular control in local government. In other words, local authorities conform to current standards of public opinion.

13. Conflict is inherent in the relations between the local authorities and the State Government. For, a local authority may not be in agreement with the general policies of the National Government. For example, the Madras Corporation was controlled by the Dravida Munnetra Kazhagam which believed in an independent Dravidanad—secession from the Indian Union. Although such a situation is not a reprehensible feature of local government, conflict between the two is inherent in it.

14. Local government is essentially government on a small

scale. The Government of India, even the State Government is a titanic enterprise. In terms of total revenue, expenditure and employment it is a great and growing concern.

15. Finally, the machinery of government is overwhelmingly local in character. The general contours of the labrynthine structure of our government indicate that there is one Union Government, sixteen State Governments, but there are sixteen Mohkuma Parishads, 120 Anchalik Panchayats and 2,574 Gaon Panchayats in the plain districts of Assam alone. In terms of finance local government is a minor partner in the total governmental enterprise. But in terms of number of units it is predominantly a government on a small scale.

Value of Local Government : One of the virtues inherent in local government is the easy intimacy and ready access to local government official. If a citizen cannot see the officials at their offices, during the day time, he can talk to them at his door step in the morning. *Second*, local problems are simple and manageable. This means that the machinery and procedures of local government are simple. There is no need for inspection to inspect inspectors, no need for multiple signatures and double entries. *Third*, all, those that are elected are supposed to be well acquainted with local problems. *Fourth*, local government leaves enough scope for the modification of rules and regulations to suit the changing conditions. Thus, while maintaining uniformity, so far as general matters are concerned diversity also is permitted to suit local, cultural, economic and social conditions.

Fifth, there is also another negative advantage in having local government. To the extent to which a local unit administers its own affairs, it avoids the distant and impersonal control of the central government. It averts government by generalization in favour of government by geographic specialization. It circumvents or ameliorates the evils of bureacracy. It also avoids involvement in big and presumably and bad politics of large government. It facilitates direct, personal, intimate, informal, face to face contact between the local government official and the citizen. The State Government, on the other hand, is indirect, impersonal, anonymous, distant and formal. Contact between the citizen and the State Government is by post. It is

a Government by procedures and a stickler for the observance of regulations. It is a *kagazi-raj*—paper government.

Sixth, it encourages as many citizens as possible to take a continuing interest in its activities and problems. The State Assembly and the Lok Sabha provide some opportunities for the citizens to play their part. But local government offers greater opportunities. This is one of the greatest virtues of local government. The absence of local government may produce disastrous consequences. First, there will be no other agency to undertake the business of practical political education of the citizens ; second, the business of government will be left very much in the hands of the appointed officials. In other words, a highly centralised administration will come into being. In this connection we may note the fact that central government in a modern state means in effect, government by a small number of officials. That is, the minister generally lays down certain principles which are worked out by officials for application to particular cases. So the minister is not in touch with the mass of detailed decisions made by his department. Here is a problem. The more the minister delegates his powers to his officials, central control must mean control by officials. If he does not delegate the administration will come to a standstill. So it follows that concentration of executive power in a few hands should be avoided and this is possible only by having a strong system of local government.

Democracy and Local Government : Devotees of local government argue that democracy cannot be realised as a human and political ideal nor can a stable and competent democratic state be built in practice unless there is active participation on the part of the citizen in the process of government and the electorate itself is educated in the exercise of political responsibility. The mechanism of government should be such as would enable us to realise both these conditions and both of them call for the establishment of free, responsible and representative institutions in the locality as well as at the centre. All levels of government must be accessible for popular participation. To leave out the local level is to leave out the level most accessible. Moreover, it is the local level which is most important both for participation and education. As a matter of fact it is indispens-

able because of its accessibility and amenability. The role of local government in democratic education can hardly be exaggerated. It provides for the greatest number of citizens all the essentials of political education. It opens the eye of the novice to the difficult art of government. It enables him to distinguish what is idealistic and what is pragmatic. It teaches him how to use power. It brings home the risks of responsibility. It develops the spirit of give and take. In short, it imparts instruction in practical politics. A person who comes to political office either in the State or in the centre without such experience is likely to commit mistakes. To sum up, local government is the basis of democracy. The latter cannot be conceived without it or the whole democratic structure would risk collapse without it. On the other hand the existence of local government would not be fully possible except within the frame work of a democratic regime. We may now consider to what extent these statements are true.

The argument that local government is the training ground of democracy is true no doubt but to a limited extent. There have been important figures in our parliamentary life who can be said to have learnt their craft in local government but there are many great political figures in the national field who have never had anything to do with local government. In this connection we may note that the ways of conducting business are similar, whether the business is that of parliament, local government, business or social affairs. There are probably far more people who have learnt a democratic and an orderly way of conducting business by managing clubs and societies than there are people who have learnt these things by being members of a local authority.

Local Government is essentially a method of getting various things done for the benefit of the community. It is a practical business. If we view local government from this point of view we are more likely to see its real nature than if we think of it as a school of democracy.

There is no justification for thinking that there is a reciprocal dependence of democracy on local government. Democracy does not cease to exist where there is no local government. Historically, it is the otherway. Local government followed the State Government and did not lead it. It became more and

more democratic with the democratization of the State Government. Again, it is possible for local government to continue and develop under a regime which may be either clearly non-democratic or superficially democratic. It is also possible for a local government to exist superficially under a democratic regime. There were local government institutions in India even though the Provincial and Central Governments were not democratic. After the establishment of a Sovereign Democratic Republic more and more restrictions are being imposed on local authorities.

It is true no doubt that historically the development of local government in Europe inspired the anti-authoritarian movements. It is also true that the stabilization and extension of local government resulted in the education of the masses and in their active participation in public life. It is equally true that often but not always local government provided the structural form and the psychological basis of democracy. But if the problem is studied more closely and critically we find that there is no justification for the identification of local government with democracy. It must not be forgotten that local government is a technical arrangement for the administration of local affairs. Even if it is established that local government plays directly or indirectly a positive role in the creation of a democratic climate, this alone would still not be enough to consider it as the foundation of democracy.

Again, the existence of local government does not mean the non-existence of bureaucracy. Indeed local government may not be a true reflection of the public will. It is oligarchic if power is concentrated in the hands of village headman. In some countries like India, local government with its structural anachronisms and the preponderance of official element over the elected element, acts as a brake on the process of democratization. We must also analyse the extent of powers given to local authorities, limitations to which they are subject, their financial dependence on the State Government to measure their autonomy. Measured by these standards most local authorities are not democratic.

Again, if the problem is studied in its dynamic and not simply in its static or historical aspect, we find that there is a fundamental contradiction between the two terms, democracy and local government. Democracy creates everywhere a social whole,

a community which is uniform and subject to rules. It avoids the splitting of the governing body, any atomization, any appearance of intermediary bodies between the whole and the individual. It puts the latter face to face with the complete whole directly and singly. Local Government on the otherhand is a phenomenon of differentiation, of individualization and of separation. It represents separate social groups enjoying a relative independence. It brings into existence a multiplicity of local representative regimes within a national representative regime. It generates the struggle for power between the local and central government and a struggle for cultural and economic regionalism. In fact the exercise of local government is essentially a training in the defence of interests which are strictly and narrowly local and almost individual. The higher interests of the nation are usually overlooked and sometimes sacrificed. This was the case in Greece in the fifth and in the fourth centuries B.C. and Italy and Netherlands in the 15th century. The socialist mayors in some parts of France threatened to go on strike in order to defend the interests of the wine growers even though they were aware of the fact that drinking is injurious. Thus, as democracy moves inevitably towards centralization local government constitutes a negation of democracy. From the above it follows the more democratic a state is the less chance local government has for development. Centralization is a natural democratic phenomenon. Decentralization is non-democratic.[1] When the management of a local affair is entrusted to a local authority, there is a risk of the ineffective exercise of its legitimate powers by the central government over the local authority. But the sovereign power of the central government constitutes the very essence of the democratic regime. Democratization of the state brings into existence self-government for the whole population. So local government is superfluous and devoid of any logical basis. National election based on adult franchise constitutes a guarantee of the representative regime and there is no need for its repetition at the local level. So local government and democracy represent indeed diametrically opposite tendencies.

[1] My old teacher Professor M. Venkatarangiah does not agree with this view. He writes, " We may have a centralized or a decentralized democracy. Decentralization is not anti-democratic. "

It is said that local government can play a very important part in the work of democratic education of the people. If decentralization actually takes place and is not simply fictitious, if the influence of the individual on the formation of policies is real, local government is the real school of civic education, a sieve for the selection of future leaders. This picture has however its shades. The experience that one acquires in local government is of secondary importance. It does not enable him to understand the idea of public good. Apart from this fact it develops narrow mental outlook. The apprenticeship on the otherhand may develop an anti-democratic spirit. It may induce him to sacrifice general interests to local interests. So a citizen taking part in local government knows very little of democracy in its political and social sense. In other words, the exercise of local government is not necessarily the best apprenticeship for the practice of democracy at the state level. Again, taking part in elections can hardly be considered to be in any way a training in meeting the demands of a democratic government at the national level. On the otherhand it frequently occurs that the members of the local authorities do not discharge their elementary duties because of the pressure brought upon them by the voters. As a consequence, they do not solve the various local problems.

Further, the assumption that experience in local affairs enables one to manage the affairs of the state implies that there is no difference between the two types of management. Actually, there is considerable difference between the two. The State is concerned with the problems of foreign policy, economic and social policy, of which the members of the local authorities have no notion and which they can approach only with a parochial frame of mind and without proper training. A member of a local authority, no matter how energetic he may be, has not necessarily the making of a great statesman and many of our ministers have not won their spurs as non-commissioned officers in the municipal army.

It follows that local government is not necessarily an integral part of the democratic system of government if we accept the definition of democracy as an egalitarian, majoritarian and unitarian system which tends by its very nature to curtail local autonomy and to eliminate intermediary bodies. Local govern-

ment has never been democratic in the modern meaning of the term. It simply ensured the safety of the individual and provided certain forms of mutual assistance. It defended local privileges but it did very little about the freedoms and the rights of the individual. The method of election of the members of the local bodies continues to be primitive and the quality of deliberation is purely utilitarian. From the above it follows that there is no connection between local democracy and State democracy. The assertion of De Tocquiville that "A nation may establish a system of free government but without municipal institutions it cannot have the spirit of liberty" is not true to facts.[1]

Party system and Local Government: There has been much discussion on this subject in this country since 1947. Eminent men like Jay Prakash Narain were of the view that party politics should not enter into local authorities, particularly panchayats. There are others of course who advocate the entry of the national parties into the arena of local government. We shall now consider the first school.

The protagonists of Sarvodaya ideology who are opposed to the very conception of party democracy advocate partyless democracy at all levels. The party system is according to them, alien to real democracy. The people who vote have nothing to do with the management of the party. Even the members of the party have no say either in the making of policy or with the inner control of the party. The parties are run by caucuses. They further argue that parties create dissensions, exaggerate differences and put party interest over national interest. Therefore, non-partisan administration of the local authorities is a first step in establishing partyless democracy.

Further, political parties are national and their programme

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[1] The writer is greatly indebted to Professor Charles Hyneman Distinguished Service Professor of Government, Indiana University for permitting the writer to collect material from his Library and for discussing some of the points with him. For an illuminating discussion on this section please see "*Public Administration*" (London) 1950 p. 11 ; 1951 pp. 25 ; 1963 pp. 345 ; pp. 433.

Also see Martin : Grass Roots.

Laski : Grammar of Politics.

is also national in character. They have nothing to do with local problems. At the time of election to a particular local authority, the national parties may be divided on a particular issue like the Chinese aggression on the Indian territory. Is it realistic to contest elections to that local authority on this issue?

There is a great difference between party politics in parliament and party politics in local government. Parliamentary Government proceeds on the assumption that the Government must command the confidence of the majority of the parliament and that the opposition of today may be the Government of tomorrow. But in local government there may not be any change. In some places, only one party may have influence and it may dominate the local authority for a considerable time: Perpetual government by one party is the negation of representative government.

The scope of activities for national political parties in local government is small. Local government is mainly concerned with the administration of certain services. For instance, the control of communicable diseases, the supply of protected water, the maintenance of communications and the employment of elementary school teachers are not political issues. They are simply administrative problems. If we take the agenda of any meeting of a local authority we find that ninety percent of the items are not political issues at all.

By laying stress on party politics we are likely to lose sight of the realities of the situation. At the national level our major troubles are political. At the local level our troubles are administrative and financial. Most of the local authorities are wretchedly poor. Party politics will not make a local authority rich. On the otherhand it may result in further degeneration of the administration of local services.

If we view things realistically, we find that most of the national political parties attach little importance to local government. Further, a party which is supposed to be progressive may adopt a conservative attitude and do positive harm to the administration of local services. So it may be said that political parties have contributed very little to local government.

There is no vital difference in the attitude of the different political parties towards local government. In this country at any rate, if not in other countries, there is no difference between

the Congress and the Communist parties so far as local government is concerned. On all these grounds, many eminent Indians have come to the conclusion that local government would be far better if party politics are kept outside it. Local authorities are not Lok Sabhas. They have no legislative functions. Their main function is the administration of the services in accordance with local requirements.

There are, however, certain difficulties which cannot be ignored. First, a general body of opinion and feeling can be effective, in a complex society, only if it is organised. The individual has practically no chance of making his views effective so long as he acts as an individual. Only through an organization can his demand be made effective. Again, there are a number of things about which political parties have policies and programmes. If these parties enter into local government, their policies can easily be implemented.

Second, every local authority must follow a consistent policy. Parties provide that consistency because they have a programme. If a party has a majority in the local authority it will execute that programme. Above all, the members of the same political party are likely to have a similar outlook which enables them to come to a similar conclusion.

Third, the alternative to party politics is independent member. An independent member may be very good. He may be very much devoted to public cause. He may be more honest in thought in talk and in deed. But he does not represent any organised opinion. He represents himself. Or he may be primarily interested in what he can get for himself. Or he may wish to turn events to his advantage. But political parties guarantee good behaviour on the part of the candidate they set up. The public knows the policy that will be pursued by the party candidates. The candidates on their part realise the fact that they are accountable for every act of theirs. From this it follows that the party system guarantees some measure of responsibility on the part of their candidates.

Fourth, the conditions of local government are such that it is virtually inevitable that political parties must enter its arena and be more active than before. What are those conditions which compel the parties to enter the arena of local government? First, panchayats are no more the old ones with

extremely limited functions and powers. They have considerable financial powers under the Act of 1959 and they are an object of party interest. So long as panchayats had little power, political parties were not much interested in them. Since their powers have been increased, political parties are tempted to enter into panchayats. The fundamental principle of political science is that where there is power, there is politics. Therefore, those who argue that panchayats must be given more powers and at the same time say that there should be no politics are taking a contradictory position.

Fifth, in all democratic countries political parties built themselves up on a local government base. This is equally true of India. In the old Madras Presidency the Justice Party established itself first by controlling local boards. The D.M. K. like the defunct Justice Party is trying to build itself by controlling the local authorities like the Madras Corporation. In Calcutta C.R.Das and Subhas Chandra Bose gave greater strength to Congress by controlling the Calcutta Corporation.

Sixth, the absence of the party system may encourage a tendency detrimental to the healthy development of the panchayat system. It is a well known fact that in almost every village there are factions, sometimes based on caste and religious considerations. The absence of party system may enable a particular community to dominate the panchayat. Political parties rationalise such factious groups.

Seventh, Anchalik Panchayats consist of representatives of Gaon Sabhas and Mohkuma Parishads consist of the Presidents of the Anchalik Panchayats. A political party which desires to control a Mohkuma Parishad must first control the Anchalik Panchayats and see that its own party members are elected Presidents. Similarly, if the composition of the Anchalik Panchayat is to be of a particular complexion then the Panchayat election must be controlled.

Eighth, the President of the Panchayat has considerable influence in the village. Formerly; it was the gaonbura that exercised influence and villagers voted as directed by him. To day his place has been taken by the President. So politicians who are interested in the elections to Assembly or Parliament must cultivate the goodwill of the President if they want to be successful in the election. Instead of all this is it not safer for

the parties to contest panchayat elections and thereby ensure the election of a party member as President ?

Ninth, the village leaders find it advantageous to be associated with political parties. In most villages there are factions. Each faction tries to ally itself with a particular political party in its own interest. Political parties take advantage of the situation and strengthen the faction by supplying it funds, leadership and organization. The faction is interested in the election of its candidate to the Assembly or Parliament so that it may be able to secure some boons from Government. The assembly man in his turn helps the faction in the panchayat elections. Thus, politics enter into panchayats.

Now the question is whether the entry of party politics introduces conflict in the rural areas. The assumptions that party politics pollute the serene atmosphere of rural India is a spacious one. Conflict is already there and the party system is simply utilised to strengthen it. Even if the parties withdraw conflict will still continue. There is no evidence to show that politics brought about village disunity or that parties are responsible for the intensification of conflict. On the otherhand it may be argued that the entry of party politics may do good instead of harm to the villagers. Larger ideas and greater issues which a political party generally advocates may annihilate the narrow outlook of the village faction and induce it to think in terms of the country and adopt a rational attitude towards public problems. So it is unrealistic to attempt to eliminate party system in local government.

There is another factor to which reference has not been made hitherto. It is that elections are useful to perfect party organization. A political party cannot have mock elections as the army can have a mock battle. So if the party is to win a national election it must be trimmed and greased properly. One of the best ways in which this can be done is to allow it to fight local elections and thereby gain experience. This is perfectly well understood by the political parties. Therefore, political parties are not likely to retire from local government.

CHAPTER II

LOCAL GOVERNMENT IN ANCIENT AND MEDIEVAL INDIA

Although the present system of local self-government in this country is the creation of the British, the conception of local self-government was not foreign to the genius of its people During the times of Pandyas and Pallavas in the eighth and the early ninth century, a system of local self-government existed but it was not so well developed as under the Colas in later times. The inscriptions of Parantaka I from Uttaramerur in the Chingleput district, Madras State give a detailed account of local government that existed in that region. They tell us that each village had an assembly consisting of all adult males concerning itself with general matters. These assemblies were of two types, the Ur and the Sabha. A third kind was the Nagaram confined to the mercantile towns and the fourth was the Nadu. The Sabha was invariably an assembly existing in the agraharas —the villages inhabited predominantly by the brahmanas. It had a more complex machinery and functioned very largely through committees. The number and constitution of the committees varied from place to place but they were representative in character.

The Sabha appointed a number of variyans (committees) and entrusted them with specific functions. The Uttaramerur inscription gives a detailed account of the committee system. As regards the qualifications of the members of the variyams, only those who were learned in the Mantrabrahmanas were appointed as members. Those who committed theft of the properity of brahmanas, those who failed to submit accounts in proper time and persons of doubtful character were excluded from the committees.

The members of the committees were elected by a double process. The whole village was divided into thirty kudumbas. Each kudumba was to nominate a certain number of members ; from among the persons thus nominated one was elected from each kudumba. The thirty members thus elected were assigned

to the five committees.[1] It must, however, be noted that the number of committees and the mode of election of its members differed from place to place.

The Sabha continued to exist even in the Vijayanagar empire. In some parts of the empire they were known as Mahajanas and some of them were large. The Mahajana of Tribhuvana Mahadevi Caturvedimangalam consisted of 4,000 persons. As under the Colas, the Mahajanas existed only in the Brahmadeya villages.

Besides the Sabha, there was the Ur which existed in the non-Brahmadeya villages. In some villages, there was a peaceful co-existence of both the Sabha and the Ur. The Ur was not a compact body. Probably it consisted of all adult males. This inference is drawn from the occurrence of the word 'Urom', people of the Ur in certain inscriptions.[2] The Ur had an executive body called 'alunganam', literally meaning ruling group. Dr. Mahalingam calls it as ganam.

Another kind of local authority that existed in South India was the Nadu—perhaps the modern district. It had an assembly but all the residents were not members of it. Besides the Nadu there was the Nagaram, an assembly organized for mercantile purposes.

As regards their functions, there was no fundamental difference between the Sabha and the Ur. Both of them were concerned with the control and regulation of landholdings, management of irrigation works and temples, collection and remission of taxes, floating of loans for capital works and the management of charitable institutions. Sometimes the Sabha prescribed the qualifications of the priest and the procedure to be adopted for the worship of God. Sometimes, both the Sabha and the Ur, assisted the officers of the Central Government in executing the orders of the King. The Sabha like the modern local authorities was the agent of the king for the execution of royal orders. Raja Raja I ordered the Sabha of the Virnarayana Caturvedimangalam to confiscate the property of traitors. It

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[1] Mahalingam : South India Polity pp. 353.

[2] An inscription of Raja Raja (955-1018 A.D.) mentions forty villages which managed their common matters.

appears as if there was a national sector. Some of the Sabhas were managing some industries.

Each Sabha employed a number of officers. They were called madhyasthas (neutrals in politics) : Though the Sabhas were autonomous, they were subject to the control of the central government. Their accounts were audited by the officers of the central government. Again, the officers of the central government attended their meetings when they transacted important business. By and large, however, they were free from central control.[3]

With the publication of the Uttaramerur inscription many eminent scholars made hasty and indiscriminate generalizations,[4] that a strong system of local government existed in ancient and medieval India. This belief persisted for two reasons. First, similar views were expressed by eminent British administrators like Sir Charles Metcalfe, Sir George Birdwood and Eliphinstone,[5] Second, India was engaged in her battle for Independence and the political agitators quoted the British and the Indian authorities to prove that Indians were capable of governing themselves. But students of history must view things in their proper perspective. A critical examination of the views expressed by the Indian and the British administrators shows that some of the encomiums they bestowed are not justified and that local self-government was not a universal feature in ancient and medieval India. It existed according to inscriptional evidence only in the 8th and 9th centuries and under the Colas and that too only in certain parts of the present Madras State, and not through out the country. It also existed in the Pandyan kingdom but the inscriptional accounts are not complete. Some of the inscriptions of the Eastern Gangas reveal the existence of these institutions. But we have to be cautious in accepting this evidence. According to the inscriptions each village was organized under the leadership of a village official called gramakeya or mutada.

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[3] Nilakanta Śastry : Colas (1960) pp. 487.

[4] Mukherjee : Local Government in Ancient India (1919) p. 150. Majumder : Corporate Life in Ancient India (1922) p. 176-77. Altekar : Village Communities in Western India (1927) p. 128. Mathai : Village Government in British India (1915) pp. 127.

[5] Kaye : The Life and Correspondence of Lord Charles Metcalfe, vol. 2, pp. 191-92.

He was the village elder and acted as an intermediary between the Government and the village. Royal orders were usually addressed to him. It was his duty to safeguard the interests of the village. He was, however, not the representatives of the people but was more or less the agent of the central government.

The Manram and the Podiyin mentioned in the classical Tamil literature of the Sangam Age should not be considered as local self-government institutions. The word Manram means an open place in the centre of the village where people met under the shade of a tree. It was also called Podiyam or Poduvil in Tamil and Bodduchavidi in Telugu. It was the place where the community festivals were held and where sacrifices to Gods were offered and where kings were said to have transacted serious business. But it was not a local self-government institution. It was simply a place where people met for the administration of justice.

Further, the sabhas that existed during the time of the Colas were communal organizations consisting of only Brahmanas even though there were other communities living in the Brahmadeya villages. This conclusion, is supported by the fact that, the qualifications prescribed for the members of the variyams were possessed only by the Brahmanas. The members of the Sabha for instance had to be proficient in the Vedas and the Vedangas and only the Brahmanas had the privilege of studying them. During the time of Raja Raja I, the Sabha of Uttamasola Caturvedimangalam resolved that only those learned in the Mantra-Brahmanas should be appointed as members of the Variyams.

The view that nagaram, valinjyar, manigramam and mula-parudiayar were local government institutions is not correct. They were simply guilds whose membership was restricted. The nagaram was a mercantile organization. Valinjyar and manigramam were economic organizations, largely concerning themselves with mercantile interests, while the mulaparudiayar was not concerned with the promotion of common matters.

From the above it is crystal clear that local self-government was not a universal feature in ancient and medieval India Further, there was no elective system as in modern times. Many of the old institutions were not territorial in character. They did not resemble the modern local government institutions.

The utmost that can be stated is that in some parts of ancient and medieval India, local government institutions existed.

Even these institutions decayed in course of time for various reasons. The decay was attributed to the centralizing tendency of the British Government. The District Officers were not favourably disposed towards them. In the second place, the British Government established a system of courts both civil and criminal thereby provided the people an opportunity to go outside the village for the settlement of their disputes. This broke the backbone of the village organization. Third, society became more individualistic by the impact of western education. Fourth, the introduction of the ryotwari system stuck a blow of the panchayats. Finally, the division of the society into several castes brought about the disintegration of the villages. The result was that when the British came to think of establishing a system of local government in the last decades of the nineteenth century, they had to start afresh instead of building on old foundation.

Local Self-Government in Assam : The present system of local self-government in Assam is a creation of the British. Prior to 1826, when Assam was annexed by the British, there were practically no local government institutions. During the period 1826 to 1836 no attempt was made to establish local authorities for the management of local affairs, for obvious reasons. The East India Company was primarily concerned with the consolidation of its power in Assam and much of its attention was devoted to the suppression of lawless activities of the tribes. Therefore, no writer of eminence refers to it. **Robinson** in his **Descriptive Account of assam** says that there were two or three panchayats in each sub-division consisting of Assamese gentlemen, concerning themselves with the disposal of civil and criminal cases of minor importance. Appeals against their decisions were taken to a superior court and finally to the court of the Commissioner. **Hamilton,** in his **An Account of Assam,** however does not refer to it. **Wade** in his **Account of Assam,** is also silent on the subject. **Gait** in his **History of Assam,** disposed of the subject in thirteen sentences. **Suryya Kumar Bhuyan** in his **Anglo-Assamese Relations** mentions that Scott, the first Commissioner of Assam instituted Panchayats in the populous paraganas and villages. **Moffat Mills** in his **Report on Assam,** simply refers to the introduction of the Bengal Act XXVI in

Gauhati. He suggested the reconstitution of the village councils and the appointment of an influential class of men as goanburas for the management of local affairs and thereby eliminate the constant interference of Government in the affairs of the village.

Inspite of this conclusive evidence, some guided by sentiment and not by historical perspective have contended that there were local government institutions not only during the British period but even prior to that. **Birinchi Kumar Barua** in his **Sankaradeva The Vaishnava Saint of Assam** makes a passing reference to the existence of local government institutions in medieval Assam.[1] **Surya Kumar Bhuyan**[2] and **Maheswar Neog** consider the **Namghars** established by Sankaradeva as little parliaments.[3] J. N. Das points out that the **sarumel,** the **majumel,** the **dekamel,** and the **sabharumel** that existed during the time of Ahoms were powerful local government institutions ; that the Bado-Kacharis had village committees which were responsible for the construction of irrigation works.[4] A similar statement was made by the annual report of the Rural Development Department for the year 1956.

A closer examination of these assumption reveals that the mels that existed during the Ahom period were not local govern-

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[1] Barua : Sankaradeva, the Vaishnava Saint of Assam.

[2] Bhuyan : Speech reported in the Assam Tribune 12-10-1962

[3] Neog : Aspects of the Heritage of Assam—The Vaishnava Renaissance in Assam—Indian History Congress Number 1959. Neog writes " Whith the organization of Sattras came there a decentralized replica, the institution of the village namghar, something like the parish church. From the beginning, the namghar formed the hub of all village activities. It was the village club and theatre. It exercised a close spiritual control over all the members of the community and held them back from many an evil act. In fact, this institution might be called the village parliament and a parliament run too on broad democratic principles. It was the village court ; trials of disputes and crimes were held in it and no one could disregard the judgment pronounced by the elders of the village. An excommunication could be decreed by this village panchayat and is the worst thing that a man in society could dread in those days. Only difficult cases were referred to the superior of sattra to which delinquent belonged or to the Government judiciary ".

[4] J. N. Das : Debocratic Decentralization—Assam Tribune, 29-1-1961 : See also the Report of the Rural Development Department 1956-58 p. 2

ment institutions. Such an assumption is based on a misunderstanding of the functions of the mels. The mels that existed during the Ahom period were of three types. First, there were mels which were gatherings of the village elders possessing influence in society. They were concerned with the settlement of disputes of minor character. Generally, they were called 'meldowan.' But the membership of such mels was not confined to men of a particular village when important disputes were considered. It was a custom to invite leaders of the neighbouring village to attend the meetings of the mels.[5] They assembled in the village namghar, in an open place or in the house of an influential person in the village. Every member of the mel had a voice in the settlement of its affairs. An elderly and influential person belonging to an aristocratic family was chosen as the foreman. He held an enquiry in the presence of the parties to the dispute and the assembled gathering. Generally, the decisions of the mels were unanimous. If unanimity could not to reached the decision of the majority prevailed.

Second, there were mels consisting of officers whom the king consulted on important matters. They were for instance Barmel consisting of the Bar-Medhi or Sajtola (the Chief Collector of Revenue to the Gossain) the Pakhi-Medhi (the collector of Revenue subordinate to the Bar-medhi) the Bayan or the head musician and certain others. The Gaonburas also were members of the mel.[6] Rajkumar does not agree with Playfair. He asserts that there were no mels consisting of principal officers of the State during the Ahom period. But Hiteswar Bar-Barua contends that the Ahom kings were assisted by mels consisting of the principal officers of the State. The Bar-Mel consisted of the important officers of the State such as Buragohain, Bargohain, Barpatra-Gohain, Barbarua, Phukan, Barua, Hazarika, Rajkhowa and Saikia. The king was not always present at the meeting of the Bar-mel.[7]

The third kind of mel was the one that was bestowed by the Ahom kings on their nearest relatives. According to Rajku-

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[5] L.S.G.—A. May 1914, No. 3-79 Note by K. L. Barua.

[6] Ibid. Note by Playfair, Deputy Commissioner, Sibsagar.

[7] Note prepared by S. Rajkumar, Additional District Magistrate, Gauhati.

mar these mels were of two kinds, male and female mels. These mels had the power to decide certain classes of cases. The male mels were again divided into two. The first consisted of Tipamia. Charangia and Namrupia mels. They were headed by a Raja or prince of the Royal family. Generally the king was selected from one of these Rajas. The Rajas were therefore like the Dukes in England. The second consisted of the Majumel and the Sarumel. The heads of these mels did not occupy the same status as that of the Governors of Tipam, Charing and Namrup. They simply managed the lands allotted to them and decided cases arising among the inhabitants of these territories.

Let us now consider the female mels. They were :

Raidamgia mel—mel for the Chief Queen
Parvatia mel—mel for the second Queen
Purania mel—
Na-mel } Other Queens' mels
Khangia mel—mel for the king's mother
Mahi-mel—mel for the step mother of the king
Enaigharia mel—mel for the grand-mother of the king
Kalichengar mel—mel for the King's Daima
Ghabaru mel—mel for the daughter of the king

Form this detailed account it is clear that the mels of the Ahom period were not strictly local self-government institutions.

During the British period there were mels. They consisted of village elders for the settlement of disputes of minor character. They were called meldowan. As we had already noted the membership of such mels was not confined to men of particular village when important disputes were considered. It was a custom to invite leaders of the neighbouring villages to attend the meetings.[8] Sometimes mels were formed for the periodic entertainment of the villagers and for the celebration of Bhogali Bihu and Rangali Bihu.[9] By 1912, even these mels lost their authority. They were dead institutions so far village government was concerned.

In Lakhimpur, mels were not influential bodies. But in the Kamrup district, the melkis, the spokesmen of the village played

[8] L.S.G.—A. No. 3-79 Note by K. L. Barua.

[9] Ibid. Note by Rai Bahadur Parasuram Khound.

an important part in the village mels for the settlement of local disputes. However, the old system of village mel gradually disappeared with the emergence of Platonic democracy in which children began to pretend to be wiser than their fathers. So the village mel was a habit rather than an institution. "It was not a standing committee, empowered to deal generally with questions as they arise but an amorphous body assembling for the settlement of particular cases."[10]

As regards Namghars established by Sankaradeva, Suryya Kumar Bhuyan terms them as village parliaments. Birinchi Kumar Barua argues that they performed not only religious but also secular functions.[11] Both of them seem to think that a kind of local self-government existed in medieval Assam. Both of them do not seem to note the difference between a namghar and a local authority. The namghar was used when the matter for discussion was of denominational character and in which its members alone were interested. When the subject matter was of a general nature, the Raiz, consisting of the village elders, irrespective of religious beliefs assembled at the house of sarkari gaonbura or some respectable villager. In almost every village there were several communities who had nothing to do with namghars. Even among those who were the followers of Sankaradeva, there were factions and each faction had its own namghar. For instance, in Hajo, there were namghars for almost every dozen houses. In some places, different castes combined together and constituted a namghar. In some important villages there were more than one namghar.[12] So namghars cannot be considered as local government institutions.

It is also contended that khels were also local government institutions. Here again, there is a misunderstanding of the term 'khel'. According to Hemkosha, khel was a fraternity, a guild, a division of the people made by the Raja for a specific purpose. According to Rajkumar, these khels were of different kinds. A khel was a body of person tracing their descent from a common ancestor. Among the Ahoms for instance, Burago-

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[10] Ibid. Note by Coquhoan, Deputy Commissioner, Kamrup.

[11] Barua : Sankaradeva, the Vaishnava Saint of Assam.

[12] L.S.G.—A. May 1914. Note by K. L. Barua and letter from Playfair, Deputy Commissioner, Sibsagar.

hains, Bargohains, Barpatragohains belonged to different khels. There was no inter-marriage among these khels because the members of each khel were considered as brothers and sisters.

Then there were khels consisting of persons of the same social status who inter-dined, inter-married and professed the same religion or practised the same vocation.

Finally, there were vocational khels such as Kamar (blacksmith) Kumar (potter) Hira (potter of the scheduled caste) Sonari (goldsmith) Bania (goldsmith for the scheduled castes) Kambar (persons who made utensils of bell metal) and Maria (persons who made utensils of bronze).

There were also khels which were territorial in character. The Dimaguria khel consisted of the residents of Dimaguria.

The organization of khels was as follows. Every adult male whose name was registered for the service of the State was called a paik. At first four paiks constituted a got.[13] But from the reign of Swargadeo Rajeswar Singha (1751- 1769) to the end of the Ahom Rule three paiks constituted a got. The first of the three paiks was called 'Mul', the second 'Dewal' and the third 'Thewal'. Each paik had to serve the State for four months in a year. The remaining two looked after the domestic affairs of the absent member. As a remuneration for his services to the State each paik was granted two or three puras of good rice land free of rent.[14]

The Gots were placed under the control of several officers. Here we have two accounts, one given by Moffat Mills and the other by Edward Gait. According to Mills a Borah was in charge of twenty gots of paiks, a saikia over one hundred gots of paiks, a hazaree over one thousand gots of paik.[15] According to Gait, a Boarh had authority not over twenty gots of paiks as Mills says but over twenty paiks a saikia over one hundred paiks and a hazaree over one thousand paiks.[16] In course of time many of the paiks were separated from their khels and attached to lands granted for the service of God (Debottar), for

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[13] Moffat Mills : A Report on the Province of Assam.

[14] Holiram Phukan : Assam Buranji (2nd Edition p. 52).

[15] Mills ; op. cit. p. 2.

[16] Gait · A History of Assam (1916) pp. 286-87.
See also Bhuyan : Anglo-Assamese Relation pp. 10-12.

religious purposes or for the maintenance of priests (bramottar).

After the conquest of Assam by the British, the Khel system was continued. In 1835, Lt. James Matthie, the Collector and Magistrate of Zilla Darrang reported that the Mikirs were divided into six khels or clans, each under the control of a chief or gam.

The Cacharis were divided into several khels. The first was known as **Satdearee** which was composed of all the Hindu priests and brahmins. It derived its name from Sat (seven) dearee—a place of worship. The second was the khel **Phatta Similli** which derived its name from the country which was famous for the similli or cotton trees. The third was the khel **Dekharee babyjeah** which derived its name from the caste of persons who emigrated from Kamrup. The fourth was the khel of **Deoms** or fishermen. There was also another khel known as **Sonawal Khel** or gold washers. There was one khel of sonawals in the district of Darrang, two in Nowgong and in Upper Assam. These khels were often robbed of their gold. So they gave up their profession and took to agriculture.

The population in Darrang was divided into khels which consisted of one caste or calling. Every khel was divided into gots which consisted of three pikes or ryots designated as the Moul, Dual, and Tewal. Every khel was devoted to the supply of wants of the State. These khels took the names from their calling such as **nao-sullecyor** (boat-builder) **khur-Gurria** (gunpowder makers) **kot-kattea** (timber-cutter) and **puttia** (matmaker). The khels were placed under the control of officers of the State called Phukans and Baroahs, Hazaris, Sykeas and Borahs. These officers did not receive any pecuniary salary for their services but a specific number of pykes and rent free land.

Each pyke was entitled to two poorahs or two and half acres of arable land and one pyke of every got was always in attendance upon government to labour for its use in his particular calling or trade or to pay a poll tax of Rs. 9 per annum per got. Some khels such as the sonawal khels paid as much as Rs. 6 per pyke.

In very extraordinary cases such as the construction of extensive public works, or for the defence of the country against a threatened invasion, the entire got was expected to turn out but in general the Dual and Tual remained at home to cultivate the land attached to each and supply food regularly for the con-

sumption of the pyke on duty who received no support whatever from the State.

The pykes of these khels were dispersed all over the district. The descent was hereditary and sons became pykes of the same khel as their fathers and on their attaining the age of 16 were allotted two poorahs of land in such parts of the district where it could be spared.[17]

In the Cachar district there were khels for agricultural purposes. The members of the khels did not belong to the same caste or race. Muslims and Hindus were found side by side in the same khel. Thus, there were khels for catching elephants which included not only Bengalis of every caste and creed but also Kukis, Nagas and even Europeans. The khel in the Cachar district was therefore a gathering of a number of individuals who came together voluntarily for carrying on a specific undertaking. If a member of a khel did not discharge his obligations, he was compelled to do so. It is thus, evident from the above, that the khels in the Cachar district were like medieval guilds in Europe possessing the necessary power for the enforcement of obligations of its members. They were the kind of unpaid magistracy with fiscal and communal powers They were not local government institutions in the accepted sense of the term.

[17] Hunter : Statistical Account of Assam, Vol. 2, pp. 200-12.

CHAPTER III

DEVELOPMENT OF PANCHAYATS

The beginnings of local self-government are to be found in the principle of local taxation for local purpose. This principle is embodied in Regulation 13 of 1813 which says that those who congregate together for any purpose and thereby made it necessary to make special arrangements for the protection of their life and property must pay for the maintenance of police.[1] The Regulation also laid down that the magistrate should constitute a panchayat consisting of one or two members elected by the respectable inhabitants of the locality concerned. The Panchayat had power to appoint and control the choukidars and to levy and collect taxes for the payment of their salaries. The members of the panchayat were endowed with certain privileges, viz., they could not be taken before a magistrate without a reasonable cause. The number of choukidars that could be employed was two for every fifty houses at a minimum monthly salary of Rs. 3. The maximum amount of tax that could be levied was annas two on each house.

In 1816, the above Regulation was amended to provide for other things. First, it was extended to stations in which a joint magistrate resided. Second, the maximum monthly salary of the choukidar was fixed at Rs. 3 and the minimum at Rs. 2. Third, the panchayat was entrusted with power to assess a rate and appoint choukidars. The collection of taxes was entrusted to an officer called Sadr Bukshee and thereby relieved the panchayat of this unpopular function. Fourth, the magistrate was authorised to order any member of the panchayat who did not discharge his duties to carry them out.

In 1856, this Regulation was replaced by Act XX which authorised the Government to extend the choukidar system to

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[1] Regulation 18, 1813. "It is expedient to provide for the appointment and maintenance of an adequate establishment of choukidars in aid of regular police and it is just and expedient that the communities for whose benefit and protection such establishment may be entertained should defray the charges of their maintenance."

any town, suburb or bazaar in which there was a police station under an officer of the rank of a Jamedar. Government was also empowered to create unions by combining two or more towns for the purpose of the Act. As regards the mode of taxation, it was either an assessment according to circumstances and property or a rate on houses and grounds according to their annual rental value. The local government determined the mode of taxation. The maximum assessment on any individual was to be the pay of the choukidar of the lowest grade. The power of appointment of choukidars was taken away from the panchayat and vested in the magistrate, thus, asserting the principle that Government should have the power to control the police of the urban areas, even though it was paid by the local boards. The primary object of taxation was the maintenance of police. The surplus funds, after providing for the maintenance of police, could be devoted for lighting and sanitation.

This Act was not extended to any place in Assam. Further, under the Police Choukidar Act, 1856, it was absolutely illegal to use even a pie of the funds raised under it, for purposes other than the maintenance of police and the panchayat had no power to raise funds for the improvement of sanitation. It had no power to raise anything more than what was absolutely necessary for the payment of police.[2] In 1859, the village choukidari system was in a demoralised condition in Bengal. Wages were ludicrously low. They were generally in arrears and were seldom paid regularly. The cultivation of his lands occupied the whole of the life of the choukidar. If the yield from the land was insufficient the choukidar was frequently the leader and participant or conniver at thefts. So in order to reform the choukidari system, a bill was introduced in the Imperial Legislative Council in 1859 by Henry Ricketts who represented Bengal in that body. The bill proceeded on the principle that panchayats should be formed wherever practicable for the assessment and collection of the cess necessary for the payment of village watchman and for the appointment and removal of choukidars subject to the control of the magistrate. It conferred on the magistrate the power to dispense with any choukidar at any

[2] Proceedings of the Bengal Legislative Council 1868, p. 86 Speech of Mr. Dampier.

time. It was, however, dropped after the first reading. Nothing was done in this matter till 1863 when the Lt. Governor requested C. P. Hobhouse the Sessions Judge, Midnapore, to study and report on the choukidari system. Hobhouse recommended that choukidars should be appointed and removed by the District Superintendent of Police. The recommendation was not accepted as it was likely to generate discontent in the villagers. In 1866, McNeille who was appointed to investigate the working of the choukidari system, recommended that the system should be abolished and that the watch and ward should be kept in the hands of Government. The proposal was considered revolutionary and therefore rejected. In 1869, another Committee was appointed to consider the whole question. On the basis of its recommendation, a bill was framed. The bill recognised the principle that the village choukidar was purely a village servant employed for the the protection of the lives of the villagers and looking to the village community for the payment of his remuneration ; that every village should have a panchayat wherever practicable ; that the panchayat should appoint and maintain the village watch, supervise its work, secure regular payment for it and report all crimes to the police.[3] These recommendations were embodied in the Choukidari Panchayat Act, 1870.

The Choukidari Panchayet Act, 1880, laid down that the district magistrate might constitute a panchayat in any village consisting of more than sixty houses. A union of two or more villages contiguous to one another might be constituted into a single panchayat for the purpose of the Act. Before appointing a panchayat the wishes of the residents must be consulted. A panchayat might be constituted on an application signed by the male residents of any village even though the number of houses might be less than sixty.

The members of the Panchayat should be residents of the village. Any member who refused to undertake the office of the Panchayatdar, when offered or failed to discharge the duties assigned to him, was liable to a fine not exceeding Rs. 50. No person could be reappointed a member of a panchayat without his consent. The magistrate could remove a member from office.

[3] Ibid. Speech of Mr. River Thompson.

As regards the functions of the panchayat, it determined the number of choukidars to be appointed and the salary to be paid to them and collected the necessary amount for the payment of their salaries.

The Choukidari Panchayat Act, 1870, was not satisfactory in several respects. Added to this the old village institutions disappeared and the patriarchal power of the native rulers died out, the landholders became speculatros and less and less leaders of the people. So, Sir George Campbell thought that some form of self-government was necessary. The Bengal Municipal bill. 1871, sought to amend the Act, in certain respects. The latter limited the expenditure of the panchayat funds to watch and ward only. The Municipal Bill, 1871 stated that the village panchayat might provide drinking water elementary education and petty conservancy services. The bill was however, vetoed by the Governor-General-in Council on the ground that the time had not arrived for the creation of the machinery for the administration of villages.

Recommendations of Decentralization Commission : During the next forty years and until the subject was discussed by the Decentralization Commission nothing was done to provide any kind of machinery for the management of village affairs. The Commission laid much stress on the importance of fostering village panchayats.* The witnesses that appeared before the Commission however, held divergent views. Some of them were of the view that the disintegration of villages had gone so far that it would not be possible to resuscitate them as self-governing units. Others were in favour of restoring the ancient panchayat system. The Commission while agreeing with the first school of thought, however contended that it was most desirable that in the interests of decentralization and in order to associate the people with local administration an attempt should be made to constitute and develop village panchayats. The Commission observed, " We are also of opinion that the foundation of any stable edifice which shall associate the people with the administration must be the village." The Commission came to the conclusion that the scant success of the efforts hitherto made to introduce the system of self-government was largely due to the fact that it was not built from the bottom.

The Commission was aware of the several difficulties like

the division of society into several castes which were like water-tight compartments, factions in the village, and the dominance of the landed aristocracy which the panchayat system had to face. But it pleaded that a beginning should be made by giving certain limited powers to the panchayat in those villages where circumstances were more favourable by reason or homogneity, natural intelligence and freedom from internal feuds". These powers might be increased gradually if the results were encouraging. The Commission, therefore, recommended that the unit of panchayat administration should be the individual village ; grouping of the villages might be resorted to in case the villages were small or contiguous to one another ; the size of the panchayat should be small ; an occasional failure should not be dealt with severely ; inefficient panchayats should be abolished ; panchayats should not be placed under the control of the local boards as the latter might not deal with them sympathetically ; they should be placed under the control of the Deputy Commissioner. Thus, the Commission made out a strong case for the resuscitation of the villages and for the formation and development of village panchayats. The rediscovery of the place that the village deserves to occupy in the economy of the country is a significant and far reaching finding of the Commission.

Archdale Earle, was in hearty agreement with the recommendations of the Commission in general because, he believed that the solution of the problem of the village sanitation and water supply lay in inducing the villagers to undertake these works themselves supplemented by grants-in-aid from the government and the local boards. Earle, therefore, proposed to include in the Local Self-Government Bill provision for delegation by local boards to village authorities of powers and duties in connection with village sanitation, petty village works, primary education and such other matters. In the districts of Cachar, Sylhet, and Goalpara where the Choukidari system was in force it was hoped that it would develop into a successful village panchayat system. In the Assam Valley, other than Goalpara, where no village system was officially recognised, it was thought that it might be possible to develop a rudimentary form of authority. The Chief Commissioner, however did not accept the suggestion of the Commission that the village authorities should be placed

under the control of the Deputy Commissioner or the sub-divisional officer as the case might be. On the otherhand be suggested a middle course namely that the village authorities when they performed duties relating to village police, dispensing criminal and civil justice and other matters not concerned with local boards, should be under the control of the District Officer. But when they performed functions delegated and financed by the local boards they should be under the control of the boards. The local boards could scarcely be expected to allot funds to authorities over whom they had no control. The Chief Commissioner was also of the view that the formation of r eally effective village organizations required the co-operation and sympathy of the local boards.[4]

The Local Self-Government Act, 1915, embodied these principles. The village authorities, however encountered a number of difficulties. The first difficulty was in regard to the administrative area. The villages which were regarded as units for purposes of local self-government were not suitable for the purpose. Each cadastral village was not a homogenous unit but a collection of hamlets. The inhabitants of one part of the village were not interested in another part even though they belonged to the same village for local government purposes.[5]

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[4] No. 3 71 L.S G.--A May 1914. Note by Mr. Cole, Secretary to Government. Mr. Cole suggested certain principles that should be observed in the organization of village panchayats ; that they might be started in some select circles like Cachar, Sylhet, Assam Valley, Golapara and extended gradually to other areas ; that the village authority should be placed under the control of the Deputy Commissioner who should be assisted by Assistant Commissioner who had faith and belief in the panchayat system ; that the panchayats should normally be constituted by informal election ; that they should not be entrusted with civil and criminal powers in petty cases ; if the panchayat system is to be popular they should not be associated with any new form of local taxation ; the work of the panchayat should not be interfered with by the government servants of the lower ranks ; the procedure in the village courts should be simple ; there should be no lawyers and no appeals ; finally the administrative area of the panchayat must be sufficiently wide so that the field for the choice of candidates may be larger.

[5] A.R. Local Boards. 1920-21. Mr. Bentick the Deputy Commissioner, Kamrup wrote " To remedy this I propose to take advantage of the coming elections to give every actual village a panchayat of its

Second, the progress of the village authorities was hampered by the non-cooperation movement started by the Mahatma[6] Third, the village authority was a suitable agency only for earth-work and jungle cutting. It did not educate the ordinary villagers in the principles of local self-government and therefore the entire scheme failed. The failure was not due to any defect in the scheme but to the fact that most of the village authorities contained nominated members. Fourth, the 'bhadralog' (higher classes) were not prepared to sit together with their ryots and discuss common problems. In some villages the chairman would allow no one to sit in a chair at a meeting but himself. It is true that in the Assam Valley there was not much bhadralog feeling because every villager had land of his own. Fifth, there were village factions. If one party got a village tank repaired there were others to damage it. Sixth, elections to the village authorities were a farce. Better type of men did not come forward to contest elections. The local boards were supposed to look after the interests of the villagers but they could not do that because in each local board area there were hundreds of villages.[7] The Panchayat scheme established under the Act of 1915 was a failure and the need for an independent and separate organization was felt. The Rural Self-Government Bill 1925, provided that each village should have a village authority consisting of nine members and that all of them should be elected on the basis of adult franchise. A successful village authority would get more power. The Government would appoint a Registrar of Panchayats who would be responsible for the construction and management of village authorities.[8] The village for local self-government purposes could include more than one cadastral village. The village authority might be entrusted with certain functions such as water-supply, medical relief and sanitation. It would ordinarily consist of more than one person but provision was made for the appointment of a single person as a village panchayat in places where there were

own ; each village will keep its own accounts....In this way the community will be better enabled to get a sense of its own existence."

[6] Ibid. p. 4.

[7] L.S.G.A.—March 1927.

[8] A.L.C.P. : Vol. 6, p. 386. Speech of Promode Chandra Dutta.

no recognized forms of village organization. Objections were, however, raised against the single member village authority ; but the select committee held the view that occasionally it might be desirable to have such village panchayats.

Thus, the object of the Panchayat Act, 1926, was to provide a machinery so that villages might undertake the management of their own affairs and thereby develop a capacity for self-help. But this Act also was a failure because most of the villages were not capable of discharging their functions. Some of the village authorities had only a nominal existence.[9]

So another Act was passed in 1948. The Act contemplated the division of rural Assam into Rural Panchayat Areas, each consisting of a number of villages and each village having a primary panchayat. All adult, residents in the primary panchayat area would have the right to vote. The primary panchayat would have an executive body. The aim of the Act was to effect an all round improvement.

This Act also met with the same fate as its predecessor. Of the 742 Rural Panchayats contemplated only 422 were established by 1959 consisting of 2,657 primary panchayats. Further, under the Act of 1948, only five primary panchayats could be established in any rural panchayat. Again, in the working of the panchayats, several difficulties were experienced. So, Government appointed a committee in 1953, to study the working of panchayats. The Committee recommended that panchayats should be established throughout the State in a period of two years and that the total number of primary panchayats might be from five to fifteen. To incorporate these recommendations an amending bill was introduced in 1955. But it was not proceeded with. In 1959, owing to certain circumstances which we shall note later on a new panchayat Act was brought into force which retained the existing primary panchayats. They are named as Gaon Panchayats whose constitution and

[9] Review of the Working of Village Authorities 1937 to 1949 Rampur in Barpeta sub-division had an opening balance of Rs. 0-1-8 ; Goalpara in the Gauhati sub-division had an opening balance of Rs. 5-11-6 and the expenditure was Rs. 2-11-9 ; Barangpari in the Nowgong sub-division had an opening balance of Rs 10. There were village authorities in the Jorhat sub-division whose annual income and expenditure was less than Re. 1.

functions are similar to those of the primary panchayats, under the Act of 1948. In 1963, it was found out that the panchayats were not working satisfactorily because of lack of co-operation between officials and non-officials. A cabinet committee consisting of two ministers was appointed to study the working of Panchayat system and report. The recommendations of the Study Team were embodied in the Assam Panchayat (Amendment) Act, 1964.

CHAPTER IV

DEVELOPMENT OF MUNICIPAL SELF-GOVERNENT

During the first decade of its rule, the East India Company made no effort to establish local government institutions because it was fully occupied with the consolidation of the power and with the suppression of lawless activities of the frontier tribes. It was when the insanitary condition of the town of Gauhati was shockingly bad and as a consequence the mortality rate among the troops stationed in the Cantonment area was great, the district officers, particularly the District Magistrate and the Civil Surgeon joined together and constituted a Town Improvement Committee. Thus, the formation of the Town Improvement Committee in Gauhati or anywhere else was not the result of a direction from above. It was brought into being by the local people and by local circumstances and therefore, it was a genuine type of local self-government institution.[1]

It is not known when the Town Improvement Committee was established in Gauhati. It is, however, definite that a town improvement committee existed in 1836 in Gauhati and the Bengal Government placed at its disposal Rs. 3,000 from the proceeds of the town tax and ferry funds.[2]

Some authors termed these committees as voluntary associations. They were not voluntary associations in the accepted sense of the term because they were brought into being by the local officials with the blessings of the Bengal Government. Further, they were subject to the control of the Provincial Government like the statutory bodies formed later. They depended mainly on grants given by the provincial government and had to render a detailed account for every pie of their expenditures. Their accounts were audited by government auditor.[3]

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[1] Letter No. 1174 Judicial (B.G.) 30-6-1847 and
Letter No. 1456 Judicial 25-10-1836 (B.G.).
Letter No. 12 Judicial 20-1-1840.

[2] Letter No. 8 Judl. (B.G.) 15-1-1848.
Letter No. 189 Judl. (B.G.) 7-10-1946.
Letter No. 2066 Judl. (B.G.) 1846.

During the first decade of its existence, the Town Improvement Committee, depended upon Government grants for its maintenance. In 1846, the Committee suggested the levy of a tax on hawkers and dealers to which the Government agreed.[4] In 1848, the Government accepted the suggestion of the Committee for the levy of a house tax[5] in the south and north Gauhati for municipal purposes.

The successful working of the town improvements committee in Gauhati attracted the attention of all those concerned with the improvement of sanitation in urban areas. In 1846, the Magistrate of Nowgong sought the permission of the Bengal Governments for the appropriation of Rs. 987-13-4 from the ferry funds for municipal purposes[6]. Evidently, a Town Improvement Committee must have existed there. In 1847, a town improvement committee was constituted in Dibrugarh.[7] The committee was permitted to appropriate the land revenue collected within the limits of that station for municipal purposes. In 1849, the Commissioner of Assam sought the permission of the Government of Bengal for the levy of a municipal tax" in the Joint Magistrates' Station of Burpeta, Mungeldye, Golaghat and North Lakhimpore ". Without consulting the Board of Revenue, the Government of Bengal agreed in principle for the levy of the tax.[8] Evidently there must have been town committees in all these places to look after municipal administration. When the Commissioner of Assam submitted concrete proposals for the levy of a house tax in these places, the Government of Bengal sought the opinion of the Board of Revenue. The latter pointed out that there was no legislative sanction for the levy of the tax. So the proposal had to be drpoped.[9] From all these facts it is evident that there were non-statutory town improvement committees in some stations where the Magistrate had

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[3] Letter No. 1296 Judl. 19-10-1850 ; Letter No 2340 Judl. 21-9-1954 ; Letter No. 1429 Judl. 23-6-1955.

[4] Letter No. 2066 Judl. 7-10-1846.

[5] Letter No. 8 Judl. 5-1-1848.

[6] Letter No. 94 Judl. 3-3-1846 from the Commissioner of Assam.

[7] Letter No. 96 Judl. (B.G) 15-1-1852.

[8] Letter No. 1475 Judl. (B.G.) 16-1-1949.

[9] Letter No. 96 Judl. (B.G.) 15-1-1852.

his headquarters. It may also be noted that the members of the town improvement committee at Gauhati were elected but we do not know when the committee was constituted, who its members were and what its powers and functions were. It may, however, be noted that in 1852, Major Vetch was the President of the Town Improvement Committee at Gauhati.

In 1842, the Bengal Act, X, 1842 was passed with a view to enable the inhabitants of any place excluding the town of Calcutta to establish a municipal board for purposes of sanitary improvement. But the Act proved inoperative because its introduction in any town required the approval of 2/3 of the householders. Further, the Act contemplated the levy of direct taxation. It was repealed by Act XXVI of 1850. This Act also was permissive in nature and could be introduced in any town only with the consent of its inhabitants. It contemplated that each town, where the Act was introduced, should have a board consisting of the magistrate and such number of commissioners as the Governor-in-Council might determine. The Board would have the power to levy and collect any tax. But the commissioners were made personally responsible for the misapplication of funds.[10]

While forwarding the Act to the Commissioner of Assam, the Government of Bengal observed : " The President in Council is desirous of exercising extreme caution in giving effect to the provisions of law. The law cannot be put into force without the consent of the local government and the President in Council trusts that the consent will never be given except upon the fullest and careful enquiry which it may be possible to make. Local officers, with best intentions, may frequently be more zealous than prudent. Their recommendations for the introduction of the Act should always therefore be received with caution and should not be acted upon until the statements upon which their recommendations are founded shall have been carefully and minutely scrutinised."

On June, 11, 1852, Major H. Vetch, the Deputy Commissioner, Kamrup, received a petition from 113 inhabitants of the town of Gauhati praying for the introduction of the Act of 1850. Major Vetch questioned " whether the Act would be

[10] Calcutta Gazette 1850 p. 719.

suitable to a population like that of Gauhati". Major Jenkins, the Commissioner of Assam, while forwarding the petition to the Government of Bengal for orders observed, " I beg to express my concurrence in Major Vetch's opinion. The whole community is composed nearly of government servants and of persons dependent on them and the courts, except a rather numerous body of native traders and, with one or two exceptions, there are no independent gentlemen, European or native, from whom the commissioners would be elected. The whole of the great powers of taxation given by the Act would in this case therefore devolve upon the Magistrate which to the best of my judgment is not desirable, for that officer is also the Zilla Judge and the Collector of the Division and holding three influential appointments. In the absence of any independent gentlemen of rank and fortune, to place the town under the provisions of the Act would be to give him (the Magistrate) solely all the powers conferred by the regulation.

The community at any rate, should have been summoned to meet for the purpose of taking into consideration the propriety of applying to the Government which has not been done and I am therefore, for this and the reasons mentioned unable in present stage, to recommend the adoption of the prayers of the petitioners ".[11]

The Bengal Government, however, directed the Commissioner of Assam to follow the procedure prescribed in the Act for its introduction.[12] When the notice of the intention of the Government to constitute a town improvement committee in Gauhati was published " no objection was raised by the inhabitants of Gowhattee against the introduction of the Act."[13] So the Bengal Government declared " Act XXVI of 1850 to be in force henceforth in the town of Gowhattee for the purpose set forth in section 2 of the said Act ".[14] The Commissioner was requested to nominate " two respectable inhabitants of Gowhattee for appointment in conjunction with the magistrate as commissioners for the purpose specified in section 6 of the afore said Act". Thus came into being the first statutory municipal

[11] Letter No. 250 dated 11-6-1852 from the Commissioner of Assam.
[12] Letter No 1299 Judl. (B.G.) 5-7-1852.
[13] Letter No. 360 of 8-9-1852 from the Commissioner of Assam.
[14] Letter No. 1823 Judl. (B.G.) 27-9-1852.

board consisting of Captain Rowlatt as ex-officio President of the Board and James Herriot and C. K. Hudson as members.[15]

The board subject to confirmation or disallowance by the Government of Bengal was autonomous. It had power to employ any number of surveyors, inspectors, clerks and other officers upon such wages as it might determine. Any commissioner could complain, receive or enquire into any allegation against a municipal servant. But the authority to punish a delinquent lay in the Board as a whole.

Rules framed under the Act provided for the levy of income tax upon all incomes of Rs. 5 and above, and for the levy and collection of other taxes. Any aggrieved person could appeal within 15 days from the date of publication of the list. The board had complete discretion to diminish or altogether remit the amount of the tax leviable from any rate payer. It had to submit a monthly account of receipts and expenditures to the Collector of Kamrup and the annual accounts to Government. It had to meet once a month and the quorum was two.[16]

In October, 1853, fifty inhabitants of "Gowhattee" submitted a petition to the Commissioner of Assam urging the abolition of the Gauhati Municipal Board on the ground that only 113 of the 3,000 inhabitants had petitioned the Government

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[15] Letter No. 142 Judl. (B.G.) 15-1-1853.

[16] Letter No. 142 Judl. 14-1-1853.

[17] Vol. 35. Letters from the Government Assam Records. "Your petitioners beg to state their surprise at the sanction of the Government for the enforcement of the Act which has been granted only at the wish of 113 souls where as the town of Gauhaty consists of three thousand houses. The magistrate without asking the rest of the people has stated that the 113 persons are of higher classes and if your honour will kindly call for the yearly returns of the inhabitants of Gowhatty from the magistrate's office, you will be able to know that there are three thousand subjects in this town and also that the above named persons have been exempted from. . taxation (because their) income is less than Rs. 5 a month. Under these circumstances the magistrate is not at all justified in stating the lowest classes of men to be respectable inhabitants.

It appears nothing more than the misfortune of the subjects that regulation 26 of 1850 has been brought into force in this town before

for the introduction of the Act and that of the 113 as many as 80 had no status in society.[17] But the petition was rejected without adducing any reasons.[18] Gauhati was the only town into which the Act of 1850 was introduced.

In 1861 the Commissioner of Assam was requested by the Government of Bengal to recommend measures, after consulting the most experienced officers of his Division, for the introduction of a better system of municipal government in Assam.[19] Hopkinson consulted Captain Rowlett and Captain E. P. Lloyd, who were the only officers in the Province who had experience in the working of municipal institutions. Both the officers were of the view that municipal government should be established compulsorily in all places where a number of people congregated either for business or for trade. Hopkinson, however, wrote. " It appears to me that the social condition of Assam is not sufficiently advanced for the introduction of municipal government fully or partially, in any shape, on any terms ". So he opposed the introduction of municipal government in any other town.[20]

From the time of its establishment, the Gauhati Municipal Board experienced financial difficulties. Its revenues were meagre while its expenditures increased day after day. Gauhati in 1861 was the most unhealthy station in India. Funds were not available to keep the town clean. So Capt. E. P. Lloyd the Magistrate of Kamrup and the President of the Gauhati Municipal Board suggested the abolition of the municipal board. The Government did not accept the suggestion. But the Municipal Act of 1850 was not extended to any other town. There

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it has been introduced in any of the larger, old and well established cities in Bengal because Assam a much smaller and junglee country than any other province, the people deriving their livelihood with much difficulty and trouble, in consideration of which the Government very considerately suppressed the enforcement of Regulation 10 of 1829 which would have been really beneficial to the Honourable Company but according to the Regulation that is now in force and the subject will oblige them to abandon the town at once. "

[18] Letter No. 2175 Judl. 4-1-1958 from the Government of Bengal.

[19] Letter No. 1007 A. Fort William 25-1-1961.

[20] Letter No. 374 of 14-6-1861.

were however voluntary committees in ' Seebsagor ',[21] ' Mungaldye ',[22] and ' Deebrughar '.[23]

The Town Improvement Act, 1850, was in force for fourteen years but it was defective in several respects. First, the introduction of the Act into any town depended upon the consent of the residents of the town. Second, sufficient provision was not made in the Act to enable the executive officer to act with vigour and decision. Third, the board was authorised to determine the persons and property to be taxed and the mode and amount of taxation to be levied. It was also authorised to make rules regulating matters concerning conservancy. As a consequence, the Act worked according to the circumstances prevailing in such place. Fourth, there was a general dislike on the part of the people of being ruled by non-officials. Above all, the universal tendency among the people was to look to Government for all improvements in their condition.[24]

Municipal Act, 1864—A Great Debate : To remedy these defects the District Municipal Improvements Bill, 1863, was introduced into the Legislature. There was a belief that this bill was introduced because of the epidemic of 1863. But this was not the only reason for its introduction. The defects in Act X of 1850 were mainly responsible for its introduction.[25]

The District Municipal Improvements Act, 1864, authorised the Lt. Governor to extend the Act in his discretion to any town, to determine its administrative area, to appoint a chairman and vice-chairman and to determine the amount of tax be levied on houses and landed property. The proceeds of the tax had to be applied for the maintenance of police force and for the

[21] Letter No. 6, 19-7-1861.
Letter No. 1296 Judl. 19-10-1850.

[22] Letter No. 2340 Judl. 21-9-1854.

[23] Letter No. 1429 Judl. 23-6-1856.
Letter No. 3224 Judl. 24-10-1956.

See also No. 3078 Judl. 3-10-1856. In 1956, the Bengal Government called for a report of these committees from the time of their original appointment upto the present date ". I could not trace this report.

[24] Proceedings of the Bengal Legislative Council 1863 p. 360. Speech of Mr. Cockrell.

[25] Ibid. 1864, p. 413 Speech of Mr. Hobhouse.

improvement of sanitation.[26] The strength of the municipal board should not be less than seven. The executive engineer and the District Superintendent of Police would be the ex-officio members. The magistrate of the district would be the ex-officio chairman of the board.

There was an interesting debate as regards the introduction of the Act into Assam. The Commissioner of Assam was requested to suggest the places where it could be introduced. At the same time he was cautioned that its introduction should be gradual, that its extension should be limited to the more populous towns and that it should not be extended to agricultural villages. The Commissioner was also told that the entire Act need not be introduced all at once.[27]

The Commissioner replied that the social condition of Assam was such that it was not in a position to make use of the Act.[28] The Bengal Government pointed out that it might not be expedient to extend the Act to any place in Assam " but it must be understood that the Government will not consider itself bound to expend public money for the conservancy improvement or watching of any town or station, when a law existed under which the inhabitants can be compelled to make provision for their local wants themselves ".

But the Commissioner asserted that Gauhati was nothing but a permanent camp of government officials whose butlers and followers constituted the town's people, and therefore the Act, should not be introduced into Gauhati.

The Government, however, pointed out that that should not be the reason for not introducing the Act in Gauhati. Laying stress on a wider principle, Government said. " As a matter of policy it is very desirable to encourage in the residents of towns a habit of local self-government and of relying upon their own exertions and resources instead of looking to the Government and its officers for help which cannot properly be given. Admitting that the local condition of Assam generally is not sufficiently advanced for the introduction of municipal government and that the races who inhabit the province are in their

[26] Ibid. 1964, p. 860-61 Speech of Mr. Cockrell.

[27] Letter No. 2018 Judl. 7-4-1864.

[28] Letter No. 25 JJudl. 27-5-1964.

non-age, this argument cannot apply to a place which has been a civil and military station for many years where there is now a considerable mercantile community both European and native and which differs little at all from similar stations in Bengal. Least of all, does it apply to a town in which a municipality, under the Act of 1850, has existed for many years and still exists."

" The question, therefore, is not whether municipal government shall be given to Gowhatty but whether the more complex and efficient system embodied in Act 3 of 1864 should be introduced in the place of Act 26 of 1850. A municipality of some kind there must exist. If the new system cannot be introduced the present one must be continued." The Commissioner was, therefore requested to reconsider the matter.[29]

The Resolution of 1864 : In the meanwhile, the Government of India issued its Resolution on the administration of police and incidentally on Municipal Government. The main principles laid down by the Resolution were that the cost of police maintained expressly for the service of any city or town should as far as practicable be defrayed by its inhabitants ; that the inhabitants should raise funds required for this and other municipal purposes ; that this transfer of the charge of the municipal police from Imperial to local funds should take place as soon as possible.

The Government of India contended that the moneyed and the trading classes who resided and carried on their business in towns did not pay their fair share of taxation. At the same time when a number of persons congregated in a small space and thereby increased facilities for and incentive to crime, the expenditure on police was greater in the town. Further, the Income Tax Act would expire on July 31, 1865. The dimunition thereby caused in the annual revenue, the increase in expenditure on the administration as a consequence of increase in prices, rendered it absolutely necessary either to renew the income tax or to impose new taxes or to transfer to the local boards a portion of the charge which was included in the Imperial budget.

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[29] Letter No. 159. T. Judl. 16-5-1864.

The Government of India pointed out that inequality between the taxation of the rural and town population did not exist under the former native governments. The land tax in the rural districts was balanced by duties upon articles of consumption and by the house taxes and cesses upon trade in towns. The Government of India also contended that the ancient police system in India was strictly municipal in character. Both in towns and in the country the choukidars were appointed and paid by the local people. So it said that the expenditure on police employed for the maintenance of law and order in towns should be defrayed by the municipal boards and that expenditure on police specially required for other purposes should be defayed by Government. In this connection it may be noted that while the municipal boards would bear a portion of the cost of police administration, the police force would be under the control of the District Superintendent of Police. It did not occur to the Government that they were denying the principle of local self-government by placing the municipal police under the administrative control of the District Superintendent of Police.

One of the advantages claimed by the Government of India for providing for the police of the towns was that it would facilitate the establishment of a municipality and a Municipal fund in towns. Although the application of municipal fund for municipal police would be obligatory, its appropriation for conservancy improvement and education would be at the discretion of the municipal authorities. " Great public benefit is to be expected from the firm establishment of a system of municipal administration in India. Neither the Central Government nor the local government are capable of providing either the funds or the executive agency for making the improvements of various kinds in all the cities and towns of India which are demanded upon it for objects of general interest ; and the practical alternative is a larger addition to Imperial taxation in order to meet the wants of the town population under a centralised system of a transfer both of the duty and the charge to these populations. Not only the local requirements be more promptly and fully provided for under the municipal system than they could be by any government agency but when the people see that they have the management of their own affairs in their own

hands, they will have confidence to do things which they would not have accepted from the Government. The appointment of wardens by popular election in the South of India has already introduced a new feeling of liberality into the administration of the religious endowments. Where the field is open, the more advanced members of the community naturally take the lead".

"The people of this country" said the Government of India, "are perfectly capable of administering their own local affairs. The municipal feeling is deeply rooted in them. The village communities, each of which is a little republic is one of the most abiding of Indian institutions. They maintained the frame work of society while successive swarms of invasions swept over the country. In the cities also the people cluster in their wards, trade guilds and panchayats and show much capacity for corporate action. In making the more important improvement, they will have the aid of the more important Europeans who are settled at the principal places of trade in the interior.

"If an improved municipal administration were not required for police, it would soon be wanted as a basis for the more enlarged and effectual measures of conservancy called for by the present state of public opinion. The Government is totally incapable of furnishing either the funds or the executive agency necessary for such purposes in all the cities and towns throughout the wide realm of British India. Holding the position we do in India every view of duty and policy should induce us to leave as much as possible of the business of the country to be done by the people by means of funds raised by themselves and to confine ourselves to doing those things which must be done by the Government and to influencing and directing in a general way all the movements of the social machine".

The Resolution added that the principle of local self-government was more easily applicable to populations collected in towns than to those which were scattered over the country.

Hopkinson was not convinced of these arguments,[30] and refuted every one of them. As regards the argument that the

[30] Hopkinson was the Commissioner of Assam for a longtime. His letters were noted for prolixity.

police system was strictly municipal in ancient India, Hopkinson said that there was no trace of any such system in the ancient native institutions of Assam. To the argument that the people of Assam were perfectly capable of administering their own local affairs and that municipal feeling was deeply rooted in them and that the village community as a little republic was the most abiding of all institutions, Hopkinson replied that " no Assamese has the faintest tradition of the polity referred to above ". Therefore, Hopkinson said that it would be unsafe to argue in favour of the fitness of Assam to receive municipal institutions from that obtained in India at large. " The applicability of such institutions to Assam must be made out not from analogy but on its own merits. And I humbly think " said Hopkinson " such will not be found ".[31] " As I have maintained on previous occasions, there are no places in Assam rising to the consideration of towns. Such places as Gauhati, Dibrugarh or Tezpur are merely villages used as centers for the police of the surrounding country. We have not only no place in Assam which would rank in importance with Rangoon, Moulmain, Akyab but even with such second, third or fourth rate towns as Ramree, Prone and others I could name in British Burmah. The resources of Tezpur were found to be insufficient lately to provide a dinner for the officer commanding the station, not that we require anything out of the way but its bazar would not furnish fish or fowl or butchers's meat of any kind. In Gauhati there is not a carpenter's shop nor a boat builder, nor a mason nor a tanner nor a shoe maker. The bulk of the population of Gauhati are out in the field cutting and bringing in their rice ".

All these arguments were of no avail. The District Town Improvement Act, 1864, was introduced on May 1, 1865 into Gauhati. In the same year it was extended to the town of Silchar but it was withdrawn in 1868 as the experiment proved a failure there.

In 1867, the Act of 1864 was amended so as to provide for the collection of taxes from the occupiers, for the appointment of the Inspector General of Jails as a member of all the muni-

[31] Letter No. 113, of 17-12-1864 from the Commissioner of Assam.

cipal boards within his jurisdiction,[32] and for the remission of a part of the tax on vacant buildings.[33]

In 1868, it was found desirable to consolidate the whole law relating to the towns which were not ripe for the introduction of the District Municipal Improvements Act, 1864. Further some of the provisions of the Act 1856 had become obsolete.[34] Hence the District Towns Act, 1868. The main object of the Act was to improve the sanitary condition of the towns which were not sufficiently advanced for the introduction of the Government system contained in the District Improvement Act, 1864 but which required some special arrangements beyond those which had been found sufficient for the rural tracts. It was drawn on the model of Act, XX of 1856.

Each town to which the provisions of the Act were extended was to have a town committee whose main function was to advise the magistrate on general matters and to examine and make observations on the budget. The Act permitted only one form of taxation—a tax according to financial circumstances and property of the person to be protected. It vested the executive government with discretion to raise taxation for all local purposes including police. Another main object of the Act was to improve the status of the panchayat so as to induce respectable persons in the towns to take greater interest in the management of local affairs. It did not attempt to increase taxation for police purposes. Taxation was intended to promote sanitation and effect local improvements which the existing legislation did not provide for. Again, Act XX of 1856 was applicable only to places with a police station under an officer of the rank of a Jamadar. But the Act of 1868 could be extended to any town. Again, the Act contemplated the constitution of a town fund which was first applied to the maintenance of police and the surplus, if any, to the conservancy and general improvement.

It also laid down the principle to be observed in the preparation of budget. The first part of the budget

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[32] Letter No. 1345 P.W.D. For William 15-3-1865.

[33] Proceedings of the Bengal Legislative Council 1867 pp. 376 Speech of the Advocate General.

[34] Ibid. 1868, p. 86, Speech of Mr. Dampier.

which related to police was prepared by the police officer of the district. The second part was prepared by the magistrate in consultation with the members of the Panchayat. Prior to 1868, the magistrate had complete discretion with regard to the application of surplus funds. He was not under any legal obligation to consult the residents of the towns. But the Act laid down that he should consult the residents of the town in the preparation of the general budget. The budget had to be placed before the panchayat for its opinion but not for its approval and then be submitted to the Commissioner together with any objection or remarks which the panchayat might have made. The Commissioner was authorised to make alterations in the budget.

Again, under the the Act of 1856, it was the magistrate that determined the amount to be collected as tax for municipal purposes. The Act of 1867 impliedly vested this power in Government. But the Act of 1868, vested this power explicitly in the Commissioner of the Division on the ground that he was in a better position to know the requirements or the locality. However, an appeal could be preferred against his decision.

As regards powers and functions of the town committees they were very few under the previous Acts and restricted to functions like the assessment and collection of taxes and drawing the attention of Government to any neglect of duty on the part of the magistrate. But the Act of 1868 endowed them with substantial powers.

Though the Act authorised the magistrate to appoint members of panchayat provision was made for the election of some of its members. Under the Act of 1847, the magistrate could remove a member of a panchayat on the recommendation of its tax payers But the Act of 1868 transferred this power to Government. The main object of the Act was gradually to train those who were to exercise power and to instruct them until they were in a position to be entrusted with it.

Mayo's Reforms : In the meanwhile the financial position of the Government of India deteriorated. Prior to 1833, all the provincial governments were separate clocks with separate main springs working according to their lights. In that year the

superintendence, direction and control of the whole of the civil and military government of all territories and their revenues were vested in the Government of India. An Imperial system of government was inevitably followed by an Imperial system of finance. Except in the case of cesses levied principally for local purposes, the Provincial Governments were absolutely dependent on the Central Government for everything. Such a system of financial administration produced disastrous consequences. First, the provincial governments were not responsible for augmenting their own revenues. On the expenditure side the Government of India miserably failed to control the provinicial governments[35] because it was at a distance and therefore lacked the knowledge of local circumstances and of local needs which were essential for the successful control of Provincial finance. But the existence of a common purse with an unknown depth, encouraged the Provincial governments to secure for themselves the largest possible share of general funds.

In these circumstances deficits in the Imperial budget were inevitable. Between 1834 and 1860 as many as 19 years had deficit budgets. It was also the case during the period 1860 to 1870. To overcome their financial difficulties the Government of India adopted several devices. The one which is of interest to us is the partial transfer of charges of local character to local accounts. As early as Lord Amherst's time, an Act was passed by which local funds were established. But since the time of Canning every year the Government of India transferred to local receipts various sources of income, more or less of a local character to be administered by local governments.[36] It was in 1861 that definite proposals were made to overcome the recurring deficits in the Imperial budget. The Government of India proposed to transfer certain expenditures from the Imperial to the local charges. But as the next year was a prosperous one the scheme was deferred. In 1862-63, however, Mr. Laing, the Finance Member said " I am as strongly as ever in favour of the

[35] Report of the Select Committee on the East India Finance Evidence of W. N. Massey. Mr. Massey said " The arm of the Central Government is not long enough to reach the numerous powerful and I may say semi-independent governments."

[36] East India Finances, 1873, p. 63. Evidence of Sir Charles E. Trevelyan.

principle of local taxation for local purposes. In fact if this great empire is ever to have the roads, the schools, the local police and other instruments of civilization. . . . it is simply impossible that the Imperial Government can find the money or the management.[37] Beyond making this statement Mr. Laing did not proceed further. A similar view was expressed by Sir Charles E. Trevelyan.[38] In 1866, there was a deficit in the Central budget. To balance the budget, Sir William Massey suggested the transfer of expenditure on certain services entirely to the local governments but the latter protested. In 1867, he suggested another scheme according to which he would transfer not only charges but also revenues to meet the charges. Any increased expenditure on the charges should be met by local taxation.[39] The local governments said that financial decentralization must be based on certain definite principles. In 1869, the Government of India took the final step and transferred certain services and revenues to local governments. The Provincial Governments in their turn transferred a part of the burden thrown upon them to the local bodies. Hence the legislation of 1870.

Apart from the financial chaos, there was also the administrative chaos. In 1870, there were various and confusing systems of municipal government with several independent statutes. To consolidate the old laws a bill was introduced in 1871. It provided for the constitution of two classes of municipalities, first and second; for the appointment or election of commissioners; for the imposition of all or any of the municipal taxes, for framing the budget and for the promotion of elementary education.[40]

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[37] Financial Statement, 1862-63.

[38] Sir Charles said, "It is simply impossible that all the local works which are required for this great continent can be executed and maintained out of Imperial revenues Local agency and local interest which are as multifarious as they are inexhaustible must be increasingly drawn and the Imperial expenditure must be gradually confined to objects which are of common interest to the work of India."

[39] Letter No. 2813 Finance 19-9-1867, Government of India.

[40] Proceedings of the Bengal Legislative Council, 1871, p. 188 Speech of Mr. Bernard. Bernard said "It is impossible to deny that it (education) is at least as important for the welfare of the town that the children of its poor should have the means of elementary educa-

The bill was vetoed by the Governor-General-in-Council on the ground that the measure would increase municipal taxation which was unnecessary and inexpedient and that it made expenditure on education obligatory. Though the bill was vetoed certain amendments to the existing law were made. The amendments provided for the election of municipal commissioners and concentrated real power in the hands of the chairman who was also the magistrate. Provision was made to enable the Vice-Chairman to exercise the powers of the chairman in his absence. This practically made the vice-chairman the real head in all municipalities except those at the headquarters of the magistrate. Provision was also made for the delegation of all or any of the powers of the Chairman to the vice-chairman.

In 1875, another bill to consolidate the various municipal Acts was introduced. The bill provided for three classes of municipalities. All the towns would come under the first or second class while the little rural townships would come under the third class. The main distinction between the first and the second class municipalities was this. In Class I the annual tax should not exceed Rs. 4 per building and in Class II Rs. 2. Towns where more than one half of the people depended upon agriculture could not be constituted into a first or second class municipality. Such places could be constituted into third class municipalities provided the amount of tax did not exceed Re.1 per building.The strength of the board should not exceed ten, seven elected and three ex-officio. The term of office would be three years. The chairman would be an official but the vice-chairman had to be elected. The chairman and the vice-chirman would have the power to appoint and dismiss servants of the board. Provision was also made for the appointment of ward committees. The first charge on the income of the board would be police. The bill permitted expenditure of municipal funds on education and famine relief. The estimates of expenditure had to be passed by the municipal board. Here is a novel provision relating to the approval of the budget. If the estimate of expenditure was passed by a two-thirds majority, the Com-

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tion available at reasonable price. If education were general there would certainly be less dirt, less disease, less poverty and less crime in our towns than is now "

missioner should not interfere with it. If it was passed by a bare majority, the Commissioner might suggest alterations. The municipal board, however, should take the initiative for the preparation of the budget estimate. The bill also authorised the Government to constitute Benches for the trial of petty offences within the limits of the township.

The Bengal Municipal Act, 1876 was adopted by the Government of Assam in 1876.[41] Under this Act, the urban areas were divided into four classes, first and second class municipalities, stations and unions.

Ripon Reforms: In 1881, the Government of India set out the principles for the revision of the agreement then in force for the administration of the provincial services and to establish a decentralised system of finance on a uniform basis. It was then explained that intimately connected with the decentralization of finance was the development of local self-government. Although considerable progress was made in regard to the development of local self-government institutions, services which were admirably suited for local self-government were still reserved in the hands of the central government. Further, heavy taxation was imposed on the inhabitants of the towns for the maintenance of police over which they had no control. So in 1881, the Government of India indicated those items of expenditure which appeared to it most suited for local control.

As regards their composition, the Government of India suggested that local bodies should not consist of persons in the service of Government; that the strength of non-officials on the boards might be one half or 2/3 of the total strength. As regards the control of the local authorities Government observed that it would be hopeless to expect any real development of self-government if the local bodies were subject to check and interference in matters of detail. So the Governor-General-in-Council urged that fullest liberty should be given to the local authorities.[42]

In 1882, the Government of India issued another Resolution on the same subject which said that the District Officer should

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[41] Home A May 1879 Assam Records.

[42] Resolution No. 3513 Finance, Government of India, 10-10-1881.

not be the chairman of the local bodies. " It is not primarily with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political, and popular education," said the Government of India. " In the beginning there will doubtless be many failures calculated to discourage exaggerated hopes and even in some cases to cast apparent discredit upon the practice of self-government itself." But the Government of India argued that if the officers of the Government only set themselves to foster sedulously the small beginnings of independent political life, if they accepted loyally the policy of Government and if they came to realise that the system really opened to them a fair field for the exercise of administrative tact than the more autocratic system which it superseded, then it could be hoped that the period of failure would be short and that real and substanital progress would very soon become manifest.

Ripon was aware of the official view that the district officer should be the chairman. But he argued that so long as the chairman was the district officer there was little chance for the non-official members of the committee to gain political experience. Further, non-official members would not evince any interest in local administration. They would not develop a sense of responsibility. There might be an unseemly clash between the chairman and the independent and energetic non-official members. On the otherhand the District Officer would occupy a dignified position if he should remain outside the board. So Ripon earnestly pleaded for a non-offical chairman.

To the argument that the people of this country were entirely indifferent to the practice of local self-government and that they evinced little or no interest in public matters, Ripon did not attach much importance. On the otherhand he contended that there was rapidly growing up, all over the country, an intelligent class of public spirited men and it was not only a bad policy, but sheer waste of power, to fail to utilise them. " The task of administration " said Ripon, " is yearly becoming more onerous as the country progresses in civilzation and material prosperity. Under the circumstances it becomes imperatively necessary to look round for some means of relief; and the only reasonable plan open to the Government is to induce the people themselves to undertake. . . . . the management of their own affairs".

To the assertion that the experiment hitherto made met with failure, Ripon replied that the principle was not tried fairly and fully. On the otherhand he asserted that the previous attempts were nullified by official interference.

Ripon laid down the principles to be observed by the Provincial Governments in the reorganization of local authorities. The administrative area should be compact; the relations between the rural boards and the urban boards should be well defined; the strength of official members of the board should not exceed one third of the total; the members of the local authorities should be elected wherever practicable; elections in some form or other should be introduced in towns of considerable size and should be extended more cautiously and gradually to the smaller municipalities. As to the system of election to be followed it was left to the provincial government. In order to encourage men of character to take up municipal work such titles as 'Rai Bahadur' Khan Bahadur might be conferred on them.

As regards the degree of control to be exercised by the Government over the local authorities, the Government of India observed that it should be done from without rather from within. While Government should have the power to revise and check the acts of the local bodies it should not adopt a dictatorial attitude towards them. The District Officer should have three powers of control—the power to sanction certain acts of the local authorities the power to veto certain decisions of their's and finally to suspend certain others. But at all times he should watch their proceedings, point out their defects, draw their attention to any neglect of duty and remonstrate with them if they exceeded the powers given to them or acted illegally or arbitrarily.

Government of Assam : Some of these suggestions were embodied in the Resolution issued by the Chief Commissioner of Assam. The Resolution suggested to the municipal authorities that the elective system might be introduced in any municipality provided the peoples expressed a desire for its introduction. The Resolution went to the extent of suggesting to the District Officer that they should induce the rate-payers to apply for the introduction of the elective system in their areas because under the Bengal Municipal Act, 1876, it could be introduced in any municipal area only when the ratepayers petitioned for it. In

other respects also the Resolution adopted a liberal attitude. It prescribed moderate qualifications for voters. It suggested the division of each municipal area into wards for the election of mmbers. It advised the District Magistrate not to attend the meetings of the municipal board unless he was elected chairman by its non-official members. If an officer was elected chairman, the vice-chairman should be a non-official. Finally, it laid down the principle that the boards might be permitted to elect their chairmen.

In 1887, the Bengal Municipal Act, 1884, was adopted by the Government of Assam. Although the Municipal Act, 1884, was adopted, the Municipal Act, 1876, was retained because the Act of 1884 did not provide for the establishment of stations or unions. The Act of 1876, provided for this. The Government of Assam did not wish to abolish stations and unions where they existed. Thus both the Municipal Acts were in force during the period 1887 to 1923.

Recommendations of the Decentralization Commission : In 1907, a Royal Commission was appointed to study along with other things, municipal problems and the extent to which powers and functions could be decentralized. Let us consider the recommendations of the Commission together with the views of the Government of Assam thereon.

First, the Commission recommended that outside the Presidency towns there should be three different forms of municipal Government. Larger cities with a population of more than one hundred thousand should have a special form of Governmet with a full time paid executive officer; the towns of moderate size should have the ordinary form of municipal government and the semi-urban areas, a town panchayat. In Assam, as we had already noted all these forms of government were already in existence and the recommendation was not, therefore, of any importance.

Second, the Government accepted the recommendations of the Commission that municipal boards should be consulted in regard to the location of liquor shops, that they should be relieved of financial responsibility in connection with famine and police.

Third, the cardinal principal laid down by the Commission

that if a municipal board was to pay for any service, it should control it and that if it was expedient that the control should be in the hands of Government, the service should be provincialised was already in practice in Assam so far as the Public Health Services were concerned. However, the Government pointed out that while the service of the sanitary overseers should be provincialised, the municipal board, where the overseers worked, should control them.

Fourth, the Government did not accept the recommendation of the Commission that municipal boards should be relieved of veterinary charges, on the ground that veterinary assistants were employed wholly for municipal work and agrued that it was not therefore unreasonable for a municipality to make a contribution towards his salary. Similarly, the Government insisted that the Municipal Boards should not be relieved of their obligation to pay for the destruction of wild animals.

Fifth, the Government did not agree with Commission's recommendation that the existing restrictions which required outside sanction to works costing more than a certain amount should be done away with on the ground that any relaxation of the present restrictions would be dangerous.

Sixth, the Commission recommended that a municipality might exempt any person or class of persons from taxation only with the sanction of an outside authority. The Government replied that the acceptance of this recommendation would result in centralization and not in decentralization of authority and therefore the existing provisions in the Municipal Acts authorising the boards to grant exemptions should not be interfered with.

Seventh, the Commission recommended that subject to the maintenance of a minimum balance, the Municipal Boards should have a free hand in the framing of budgets and in the re-appropriation of amounts. They should not be required to devote any percentage of their income to any particular service. It ought not be obligatory on the part of the municipal boards to accept the recommendations of the departmental heads. The only limitation which the Commission wanted to impose on the boards was the compulsory maintenance of a prescribed minimum opening balance. The Government did not accept this recommendation on the ground that the time had not come for the grant of such unrestricted freedom to the boards.

Eight, the Commission recommended the grant of full powers to the municipal boards to create and fill up vacancies, to punish and dismiss any of its officers and servants, except important ones. Here again, the Government did not agree with the Commission. In their view, such freedom would encourage the municipal boards to multiply posts, a tendency which already existed.

Ninth, the Government, however, accepted the recommendation of the Commission that a majority of the members of a municipal board should be elected; that the chairman of the board should ordinarily be a non-official; that an officer should not be the chairman of more than one municipal board; that committees should be constituted for the effective administration of the services and that these committees should be entrusted with real powers and functions; that they might contain persons who were not members of the board provided they had expert knowledge of the subject concerned; that the proceedings of the meetings of the board must always be published in the vernacular of the region. The Government, however, did not accept the suggestion that contested elections should be decided by civil courts. They were of the view that the magistrate should continue to exercise this power.

Tenth, the Commission recommended that the board should be authorised to levy a special rate for the construction of railways. Both the Government of India and the Government of Assam rejected the proposal. But the Government of India promised to consider any such proposal which might be submitted to it by the Provincial Government.

Eleventh, the Government accepted the recommetdation of the Commission that plague expenditure should be borne by the municipal board concerned.[43] Thus practically almost all the important recommendations of the Commission were rejected by the Government of Assam.

The position in 1914, was that there were types of municipal institutions, one under the Bengal Municipal Act, 1876, and the other under the Bengal Municipal Act 1884. Besides the municipal boards, there were stations and Unions. The Government of Assam felt that the existence of different Municipal Acts

[43] See L.S.G. A: March 1914 for full details.

was administratively inconvenient. Moreover, both the Acts were in many respects obsolete and incomplete. So steps were taken to bring into existence a new Act[44].

Resolution of 1914 : In 1914, the Government of Assam issued a resolution suggesting :

First, that small towns should be governed by a separate statute. The chairman and the vice-chairman of the Town Committee should, in the first instance, be appointed but provision should be made for the election of the chairman, vice-chairman and the members of the committee;

Second, the Bengal Municipal Act, 1884, laid down the condition that the total population of a municipality should not be less than 3,000 that the density of population should not be less than 1,000 per square mile and that three-fourths of the adult male population should be nonagricultural. While these factors were generally taken into account before constituting a municipal board, the existence of these hard and fast rules was found to be undesirable. They prevented the establishment of municipal boards at the sub-Divisional Headquarters of some importance. Similar restrictions were not imposed by the Municipal Acts of other Provinces. So Government thought that it should have greater discretion to determine the administrative areas of the municipal boards.

Third, ordinarily the chairman of a municipal board should be an elected non-official and a substantial number of members should be elected. But in view of the conditions obtaining in such towns as Shillong, Government should have the power to appoint the chairman and a certain proportion of the members.

Fourth, Provision would be made penalising corrupt practices at elections.

Fifth, persons very much in debt should not be the chairman or vice-chairman or secretary of the board.

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[44] L.S.G.—A. January 1916. On October 16, 1912, the Chief Commissioner suggested that Assam should have a municipal Act of its own. On April 22, 1914, Major Kennedy prepared a draft Resolution containing the main outlines on which the Legislation should be undertaken and it was issued on February 6, 1914.

Sixth, gratuities or pensions should be paid to the families of municipal servants who die while in service.

Seventh, legal practitioners who were also members of the board should not be permitted to appear against the board. Under the existing law they could not be prevented from appearing in cases against the municipal board although they might in that capacity obtain valuable information and use it against the board. Further, no pleader could render paid professional service to the municipal board of which he was a member. As a consequence, sometimes municipal boards were deprived of the service of the ablest of their members.[45]

Act of 1923 : These principles were embodied in a bill and published for public criticism. It was, however, decided that legislation should be postponed till the introduction of the Constitutional reforms which were then under consideration. It was in 1922, that another bill was introduced in the Legislative Council.

The object of the bill was to provide municipal legislation which would be suitable to the conditions of the Province. So the provisions of the Act of 1884 were retained except where experience had shown them to be unsuitable. For instance, the sections of the Act of 1884 which dealt with the creation of municipal boards were found to be unsuitable to the existing conditions and therefore they were replaced by the provisions borrowed from the Madras District Municipalities Act, 1920. Effect was given to the recommendations of the Decentralization Commission that the Municipal Boards should ordinarily consist of a substantial elective majority and that the chairman should usually be an elected non-official. Provision was made for the appointment of all or any proportion of members and chairman in exceptional circumstances. The acceptance of the principle of election of non-official chairman, who would usually be a busy man, might create certain administrative difficulties. So the bill suggested the delegation of some of the functions of the chairman, to the heads of the departments. Again, in view of the extension of the functions of the municipal board, the bill provided for the appointment of a number of committees and

[45] No. 1069-M 4-8-1915.

Golaghat[47] and Jorhat[48] into Unions in 1880. Silchar was constituted into a station in 1882.[49] In 1883, Dhubri was constituted into a second class municipality.[50] The same status was bestowed on Barpeta in 1884.

In 1887, the Bengal Municipal Act, 1884, was introduced in three places, Gauhati, Dibrugarh and Sylhet for obvious reasons. The Bengal Municipal Act, 1876, which was in force prior to 1887, made no provision for the levy of a water rate, lighting rate or a conservancy fee. The Gauhati Municipal Board constructed an expensive water works system but it was unable to maintain it because it had no power to levy a water rate. In Dibrugarh, the municipal board had no power to levy a scavenging fee to pay the sweepers employed by it.[51] But the Municipal Act, 1884, provided all these things.

A second class municipal board was constituted in Barpeta in 1886, in Silchar in 1893,[52] in Tezpur, Narayanganj[53] and

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[47] Ibid. 17-9-1880 Golaghat.
[48] Ibid. 27-8-1881 Jorhat.
[49] Ibid. 1882 Silchar.
[50] Assam Gazette 14-4-1882.
[51] Letter No. 109 of 20-10-1887 from the Government of Assam.
[52] Letter No. 31888 of 21-12-1891 from the D.C. Cachar.
Letter No. 1074 of 8-2-1892 from the D.C. Cachar.
Letter No. 150 13-4-1892 Government of Assam.
Letter No. 3656 G. 1892 Government of Assam.
Letter No. 3047 G. 28-12-1892 Shillong.

Silchar, as we have already noted was constituted into a municipality in 1865 under the District Towns Act, 1864 but was abolished in 1868. In 1882, it was constituted into a station. Since then the population of the town increased, and as a consequence the sanitary condition was not satisfactory. Under the existing Act the stations had no power to impose a tax on latrines, carriages and animals or for the supply of water. So in 1891, the Deputy Commissioner, Cachar suggested to the Government of Assam that Silchar station might be converted into a second class municipality. The population of Silchar in 1892, was about 6,000 and more than ¾ of the total population was engaged in pursuits other than agriculture and the average population per square mile was 4,000. So a second class municipality was established there on 1-4-1892.

[53] Letter No. 379 of 16-12-1893 and also Letter No. 5089 of 29-3-1893 from the D.C. Darrang, Letter No. 93 M. 9-5-1893 Government of Assam. Letter No. 9343 Judl. 20-12-1893.

Nowgong in 1894. [*] In 1902, Dhubri was brought under the Municipal Act of 1884. In 1906, Hailakandi was constituted into a Union. Jorhat and Shillong were converted into municipalities in 1909 and 1910 respectively. In 1913-14 Karimganj was constituted into a municipality. In the next year Nowgong was brought under the Municipal Act, 1884. Mangaldai and North Lakhimpur were constituted into Unions. In 1916-17, Sibsagar station was converted into a municipality. In the same year Barpeta was brought under the Act of 1884 and Unions were constituted at Doom Dooma and Palasbari. In the next year a Union was constituted at Gauripur and in 1919 at Tinsukia. In 1920-21, Golaghat was converted into a municipality. During the period 1922-23 to 1946-47 Moulvi Bazar was constituted into a municipal board, Haflong, Sunamganj and Doom Dooma into Town Committees. In 1946-47, there were 28 urban boards. But as a result of partition five of them went over to Pakistan. In 1950-51, there were fourteen municipal boards and nine town committees. In June 1964, there were twenty municipal boards and 27 town committees.

In 1891, the Chief Commissioner in his annual report on sanitation commented on the insanitary condition of Tezpur.

So, the Commissioner of Assam Valley suggested that Tezpur should be converted into a second class municipality. But, the Deputy Commissioner, Darrang, thought that the sanitary condition of Tezpur could be improved without the clumsy expedient of turning a mere village into a municipality. Later on he agreed to the proposal.

[*] Letter No. 2084 of 30-6-1893 from the D.C. Nowgong.
Letter N. 1496 G. 8-7-1893 from the Government of Assam.
Letter No. 9019 Judl. 6-12-1893 from the Government of Assam.

The insanitary condition of Nowgong induced the Deputy Commissioner to recommend the formation of a second class municipality in Nowgong The Commissioner of Assam Valley supported the proposal. The Nowgong municipal board was constituted on 1-1-1894.

CHAPTER V

DEVELOPMENT OF LOCAL BOARDS

Local Boards in Assam are as old as the municipal boards. In 1850, there were ferry funds in almost every district [1] for the construction of roads and bridges. [2] The fund was administered by a committee [3] consisting of officials and non-officials. [4] Most of the members of the committee were Europeans, excepting in Goalpara and Kamrup. [5] The Goalpara Committee consisted of three Indians. [6] In 1860, the net income from the ferries in the several districts was merged into the Amalgamated Distrcit Road Fund and the wants of the district so far as the construction of roads and bridges was concerned, were met from this fund. [7] To this fund the surplus available from fines levied on impounded cattle was added. Later on, the Khasmahal Fund also was added. [8] Besides the Amalgamated District Road Fund, there was also a general fund for the construction and maintenance of railway feeder roads and roads connecting the district roads. [9]

So, at first there was no taxation for local purposes in Assam. Local boards did not develop from local taxation as in other provinces. Thus, there were local boards for local purposes and local taxation came later on. In Assam, there was little local taxation. Such local taxation as there was took the shape of tolls. The local tolls on bridges and roads were obnoxious to the peope. But they readily acquiesced in a toll amounting to a tax on a river, where there was no bridge and where nothing was done to facilitate traffic. [10] Probably, the

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[1] Assam Records No. 1393 Judl& 12-11-1850.
[2] Ibid. No. 940, Judl. 5-8-1850.
[3] No. 1849, Judl& 13-7-1854 and 2817 Judl. 10-1-1856.
[4] No. 5099 Judl. 8-6-1860.
[5] Ibid.
[6] Ibid.
[7] No. 4408 P.W.D. 29-10-1860.
[8] No. 6168 P.W.D. 28-12-1862.
[9] No. 4592 P.W.D. 31-10-1860.
[10] Bengal Administration Report 1871-72, p. 168.

rationale of this feeling was that as the river could not be avoided something must always be paid to the ferryman. The ferry funds were utilised for the construction of roads and bridges.

The first occasion on which the question of local cess for local purposes was mooted was in connection with the subject of educational expenditure and the educational policy of the Government of India. During the time of John Peter Grant, the Patasala system was introduced. The system was expanding and as a consequence the expenditure on education was increasing. When the allotment of the Patasala system was found to be insufficient the Bengal Government authorised the appropriation of the savings from the general grants for the administration of primary education which was working satisfactorily. The Government of India objected to this procedure. Here was a crisis. Expenditure on primary education was increasing and imperial funds were not available. So the Government of India said that the main burden of vernacular education should fall on the proprietors of lands and not on Imperial revenues. They suggested that a voluntary cess might be levied and that the zamindars might be invited to pay for the maintenance of schools. But, this idea was ridiculed as utterly impracticable. Then the Government of India suggested a compulsory levy of two percent of the gross annual value of the land, not only for the promotion of education but also for the construction and maintainance of roads.

The Road Cess Act, 1871 : The imposition of a cess on land was opposed by the landed proprietors. They asserted that land revenue having been fixed for ever, no additional taxation of any kind could be levied on it. Some of the officers of the Bengal Government supported the stand taken by the landlords. So the issue was referred to the Secretary of State who decided that landed property was liable to local taxation for local purposes like any other property. [11] At the same time he laid down the

[11] Proceedings of the Legislative Council, Bengal, 1871, p. 51. The Secretary of State wrote " There is still much absolutely requiring to be done.....The Government cannot undertake that out of the Imperial funds. It cannot make and maintain roads and byeroads, required for developing the resources of the country so vast as India. If there-

principle that the local people should have a say in both the assessment and in the disposal of tax amounts. [12] This principle was reiterated by the Government of India while forwarding the Despatch of the Secretary of State to the Government of Bengal. [13] The Bengal Government appointed a committee for suggesting measures for the levy of local taxes for local purposes. On the basis of its report, the Road Cess Bill was prepared which provided for the taxation of movable property. It laid down that the proceeds from the tax should be applied for the construction and maintenance of roads and bridges; that the administration of the proceeds of the cess should be entrusted to a Road Committee; that two thirds of the members of the committee must be non-officials, and that the members of the committee should be elected. It further laid down that the committee should concern itself with the selection of works which would benefit the district. The Government would not interfere with the decision of the committee provided they were supported by three-fourths of its members. Besides the District Road Committee, there might be sub-divisional committees, subordinate to the district committee.

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fore, this work is to be done at all, it must be done by the help of rates established for the purpose. In like manner the expenditure which may be required for vernacular education of the people and for sanitary improvements cannot be afforded by the Imperial revenues and must be met in the main out of some additional sources. There appears indeed, to be no alternative, unless it be the alternative of allowing the country to remain without drainage, without roads and without education.

[12] Ibid. "It would be most desirable if the local character of the rates could be emphatically marked by committing both the assessment of them and the application of them to the local bodies and if possible to carry the people along with us through their natural leaders both in the assessment and in the expenditure of local rates."

[13] Ibid. "His Excellency is most sincerely desirous that every opportunity should be given to the people to participate in the management of local affairs.....In any plan that may be considered this primary object should never be lost sight of and he will with this view, gladly assent to any measure which the Lt. Governor may propose for ensuring the co-operation of the intelligent classes of the community both in the levy of rates and in the disposal of their proceeds."

The Bengal Road Cess Act was comparatively better than the Act passed by the North Western Provinces Legislative Council for the imposition of a local rate. The fund raised under the latter was to be appropriated to meet the deficiency in the Provincial revenues. But the road cess collected under the Bengal Road Cess Act was applied to local objects and administered by local boards. [14] The Bengal Road Cess Act was introduced in Assam in 1871 and road committees were formed in the five plan districts of the Assam Valley. The Road Committee in Kamrup and Darrang seem to have worked satisfactorily, but not others. [15]

In 1874, when Assam was constituted into a Chief Commissioner's Province, there were a number of local authorities and local funds. There was the District Road Fund and the Government Estates Improvement Fund. On April, 1, 1874, the Government Estates Improvement Fund was abolished and in its place four separate funds were constituted, the District Reserve Fund, the Distrcit Road Fund, the District Primary School Fund and the Miscellaneous Improvement Fund. [16]

The District Reserve Fund was operated by the Chief Commissioner who selected works which were to be financed and executed from it. The Primary School Fund was administered by the District School Committee. No portion of the fund should be devoted to purposes other than primary education. The District Road Fund was under the control of the District Road Committee whose chairman was the Deputy Commissioner and the fund was intended to finance the construction of roads and bridges. The Miscellaneous Improvement Fund was under the control of the Deputy Commissioner. No portion of the fund could be devoted to the improvement of roads and communications. All the four funds were kept separate from each other. They were not available for any other purposes than that for which they were constituted. They could not be spent in any district other than the one to which they belonged. The balances of these funds remaining unspent at the end of each year

[14] No. 42-50 Pre 1874 Records.

[15] Bengal Legislative Council Proceedings 1871 p. 172-73 Speech Mr. Schalch ; Speech of Digumber Mitter.

[16] Assam Gazette Part III 26-9-1874.

were equally divided among these funds and the District Reserve Fund. [17]

These four funds derived their income from one-seventeenth of the land revenue in Kamrup, Darrang, Nowgong, Sibsagar the Lakhimpur districts. This amount was distributed among the four funds as follows : One-fourth to the primary school fund for the promotion of elementary education; one-eighth to the Miscellaneous Improvement Fund to be spent on works other than roads and rest houses, one-fourth to the District Reserve Fund for district works and three-eighths to the District Road Fund for the maintenance of roads and rest houses. [18]

In 1875, the Deputy Accountant General pointed out the Administrative inconvenience caused by the existence of four separate funds with separate accounts [19] and suggested the formation of a single fund consisting of the balance of the old Government Estates Improvement Fund, land revenue assigned by the Government of India, local cesses to be levied hereafter grants from the Provincial Government and other sources of income. The Chief Commissioner accepted the recommendation and a District Improvement Fund was constituted with four separate sub-ordinate funds. The annual budget of the fund was prepared by the Deputy Commissioner and submitted to the Chief Commissioner for his approval. [20]

Assam Local Rates Regulations, 1879 : Thus, in one and the same place, there were four separate committees in operation,

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[17] No. 12 Home A, 24-9-1874.

[18] AAssam Gazette Part III 26-9-1874.

[19] Ibid. June 1875 p. 885.

[20] In the preparation of the budget, the details of the proposed expenditure against the District Reserve Fund were supplied by the Secretary to the Chief Commissioner for Public Works; the details of the proposed expenditure against the District Road Fund were settled by the Deputy Commissioner in consulation with the District Roads Committee and the Secretary to the Chief Commissioner in Public Works. The details of the expenditure on primary education were settled by the Deputy Commissioner in consulation with the Inspector of Schools and the District School Committee. Finally, as regards the expenditure against the Miscellaneous Improvement Grants, the Deputy Commissioner himself settled it.

the District Improvement Committee, the District Road Committee and the Charitable Dispensaries Committee. Their constitutional structure varied from place to place.[21] There was therefore confusion. Apart from this fact, some of these committees were not working satisfactorily. The average attendance was not even one-fifth of the total strength.[22] Above all there was no local taxation for local purposes. In 1875 itself the Chief Commissioner suggested local taxation for local purposes but it was not accepted. Some of the planters paid a part of the expenditure on roads while others did not. So there was grumbling in the planter's community. All these factors induced the Chief Commissioner to issue the Local Rates Regulation.[23] Thus, for the first time local rates for local purposes were levied.

All land was liable to the payment of cess in addition to land tax and local cesses. From the proceeds of the cess 3/8 was allotted for expenditure on works of provincial importance. The five-eighths was placed at the disposal of the district committee together with such revenues as were derived from the old rates, cesses ferry rents and other miscellaneous services.

The district committee consisted of not less than six persons. In addition to the district committees there were also branch

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[21] Assam Gazette 4-8-1877. The Cachar District Improvement consisted of fourteen members with the Deputy Commissioner and the District Superintendent of Police as ex-officio members. The Kamrup Improvement Committee consisted of 31 members with the Deputy Commissioner as chairman.

... Assam Gazette 5-7-1879. The Kamrup District Road Committee consisted of twenty members in 1878-79. The Cachar District Road Committee consisted of the Deputy Commissioner as the ex-officio chairman and civil surgeon as the vice-chairman and fifteen others.

[22] Assam Gazette 1877, p. 221. The Kamrup Improvement Committee consisted of 31 members; twenty five of them never attended its meetings. The meetings were adjourned frequently for want of quorum.

Ibid. 5-7-1877, p. 419. The Kamrup District Road Committee consisted of twenty members in 1878-78. But the average attendance was just six. Many of its members never attended its meetings.

[23] Ibid. 27-12-1879. The Regulations were brought into force on 1-4-1880 in the districts of Lakhimpur, Sibsagar, Darrang, Nowgong, Kamrup and Goalpara.

committees consisting of not less than three persons. At least one-third of the members of the committees had to be non-officials. [34]

The members of the District and Branch Committees were appointed by the Chief Commissioner on nomination by the Deputy Commissioner. [35]

The functions of the District and Branch Committees were the preparation of the budget, the allotment of funds for the improvement of roads and for the management of schools and the District post. These committees had nothing to do with education and postal services. The District Committee could employ any agency for the execution of works with the sanction of the Chief Commissioner.

Besides the District and Branch Committees, there were the dispensary committee in each sub-division and the district school committee for the management of funds raised by public subscription and fees from scholars. The existence of so many committees operating in one and the same area created confusion. So the Chief Commissioner suggested that there should be only one committee performing all the local functions. There were protests against the proposal. Ultimately all committees were abolished except the District Committee.

Although the Local Rates Regulations were introduced in all the eight districts in the plains, conditions differed from district to district and they were responsible for the successful working of the Local Rates Regulations in some districts and their failure in others. Sylhet was unique in very many respects. It was a district of small proprietors, permanently settled, thickly populated, education tolerably general and acquaintance with public

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[34] Assam Gazette 3-1-1880. The strength of the District Committee was more than six. The Cachar District Committee consisted of nine member of whom five were ex-officio members and four non-officials. The Kamrup District Committee consisted of 16 members 8 non-officials and eight officials. The Goalpara District Committee consisted of twenty-five members of whom six were ex-officio members and twenty others. Non-officials were in a majority. The Darrang District Committee consisted of 17 members of whom four were officials and 13 others. Many of the members of the District Committees were mouzadars.

[35] Assam Gazette 21-6-1880.

law was greater. The people were well aware of their rights and were fond of asserting them by joint action. They learnt the art of managing their affairs independently of Government. So the District and Branch Committees functioned successfully.

In Cachar the character of the population was almost like that of Sylhet. The spirit of co-operation was even greater. For instance, it was customary for companies of men bound together by no blood ties, caste or even religion to combine together and hold land in common for cultivattion. They took land from Government on lease and divided the produce among themselves. But society was in a rudimentary stage. The conditions of life were still too primitive for the growth of a cultivated and leisured class. The tea planting community was stronger in this district than in any other and it constituted nearly the whole of the intelligentsia of the district. It was, however, concerned with the protection of its own interests. That is, it was greatly interested in the improvement of communications for the transport of tea, sanitation so far as it affected the wellbeing of its labour force on which its prosperity depended and in improved postal communications. It did not evince the same amount of interest in primary education. Thus, local boards were dominated by tea planters and the administration of the service in which they were interested was efficient.

Goalpara, was a backward district. The greater part of it was permanently settled and divided between nineteen great estates. The proprietors of these estates were the only prominent citizens of the district. The bulk of the population were ryots belonging to the semi-Hinduised aboriginal races. There were no commercial or legal elements except in the small towns of Dhubri and Goalpara. There were no tea planters excepting in a small corner of the Eastern Duars. Such a society was not a fertile field for the development of local government institutions. There was, however, a saving feature. The landed proprietors, their relatives and agents provided the necessary material for the working of local boards. And yet it must be said that the experiment was not a success.

Kamrup was totally different from Goalpara. The land revenue system was ryotwari. As a consequence, there was direct contact between the Government and the ryot. Large areas known as mouzas were managed by mouzadars. The

mouzadars were both government servants and leaders of the people. They undoubtedly exercised great power and enjoyed certain privileges. They were the only class of people who were educated to some extent. The tea planters did not occupy an important position as in Cachar. Inspite of these favourable conditions, local government institutions did not flourish in Kamrup because the people did not evince keen interest in them.

Darrang, resembled Kamrup in some respects but here the tea planters' community was stronger and it dominated both the district and branch committees.

Nowgong was in a primitive stage. It included the Mikir Hills. So there was a dearth of persons of sufficient intelligence and public spirit. The population chiefly composed of tribes, hardly removed from barbarism was not the one that could appreciate and work successfully local government institutions. There were no doubt tea planters but they were interested in communications and not in other things.

In Sibsagar, however, conditions were favourable for the development of local government institutions. Jorhat, and Sibsagar, the centers of Ahom administration contained contained an intelligent and fairly well educated class which evinced interest in the working of local boards.

Lakhimpur, on the otherhand, was unfit for the experiment. It was thinly populated, chiefly inhabited by tea garden labourers and tribes who were hardly removed from barbarism. There was little education. Even the mouzadars were unable to read and write.

Thus, in many districts social and economic conditions were not favourable for the development of local government institutions. What was practicable in one place was impracticable in another. There were also other reasons for the failure of the district committees.

First, the district committees were unwidely and therefore unsuitable for quite deliberation. Second.[36] Even when they met, attendance was very poor and the proceedings were dominated by the residents of the town and of the neighbourhood. As a result the committeee was hardly representative.[37] Finally,

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[36] Home A. July 1883, p. 45.

[37] Ibid. Letter from Mr. Johnson, Deputy Commissioner, Sylhet.

there was the domination of the European interests. It appears as if the district officers and the planter members had a community of interest and therefore the Indian members lost all interest in them. It is no exaggeration if we say that the District Committees were the instruments through which this community of interest was implemented.

So it was suggested that as the District Committee was not effective as an executive body it must be abolished and that smaller committees should be constituted. [28] In other words, the existing Branch Committee should take the place of the District Committee. They should be entrusted with all those functions which were being performed by the district committee. Although the district committees as executive bodies might be abolished there should be a general committee in every district consisting of delegates from all the local committees for the discussion of common affairs. [29]

Resoultion of 1881 : In 1881 the Government of India suggested to the Provincial Government certain reforms. *First*, an increase in the strength of the non-official members from one half to two-thirds, *second*, the transfer of certain services and revenues to the local boards; [30] *third*, the transfer of grants-in-aid to schools and dispensaries and finally the transfer of the entire local rate together with a large portion of the provincial expenditure.

The Government of Assam opposed the proposal on the ground that Assam, in many respects was a backward province. It did not possess education resources intelligence or influential gentlemen who were prepared to undertake the work of the local boards. So they said that the District Committees should not be entrusted with real powers. Their function must continue to be consultative.

According to Mr. Johnson the Sylhet District Committee met only thrice in two years. Attendance was generally poor. The total strength of the Sylhet committee was 75, but the average attendance was only twenty. Of the twently, ten were officials, six were residents of headquarters and two were planters.

[28] Ibid. Jonson suggested the division of Sylhet into five districts for local government purposes.

[29] Ibid.

[30] Letter No. 627 F. 31-1-1882.

The Government of India was not convinced of this argument. They insisted on the district committees being endowed with real powers and functions. [31] Accordingly, the Government of Assam deprovincialised certain services and revenues which resluted in the increase of the powers and functions of the district committees. Let us note in some detail in what respects the powers and functions of the district committee were enlarged.

First, the district committee, as we have already noted, was entrusted with the sole management of all matters connected with primary education. Secondary education was not entrusted to it. In 1882, the Government decided to transfer all aided Middle and Lower Middle Schools but not Government High Schools and Middle Schools to the control of the District Committes. The Government did not like to transfer the Government High and Middle Schools on the ground that there might not be uniform treatment if they were so transferred. Further, more efficient teachers could be recruited by the Government than by the district committees.

The mission schools in Darrang and Nowgong districts which were receiving grant-in-aid were also not transferred to the control of the respective district committees. But the police primary schools established at the district headquarters and the Lower Normal Schools experimentally started in Goalpara were also handed over to them together with the services of the Sub-Inspector of Schools.

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[31] Ibid. The Government of India wrote "Although it is very probable that at the outset little or no more may be gained from the agency of the committee than you anticipated the necessity of leading them up a higher executive position ought in the opinion of the Government of India to be steadily kept in view and impressed by the local government upon all the district officers. There appears to be no reason why the intelligence and local knowledge which it is admitted are of incalculable value in making known the wants of the population should not be capable of suggesting simple and economical methods by which those wants may be supplied and of exposing, laxity, abuses or extravagance which might otherwise be unknown to the officials of the Government. Such capabilities have been developed and much valuable executive assistance is now obtained in some provinces. Similar results may be arrived at in the case of Assam."

Second, certain semi-political fairs at which the hill tribes came to trade were transferred to the local borads.

Third, it was under Public Works that the largest measures of decentralisation was carried out. The whole of what was hitherto been treated as Provincial expenditure, excepting the workshops in Dibrugarh and Gauhati, were transferred to the control of the local boards. Even the P.W.D. staff was transferred to the control of the local boards.

It must, however, be noted that this transfer was not made to get over any financial difficulties as in 1870. The amount of grant was not cut down. The District Committees were requested to accept the grant and undertaken the responsibility of administering the services for five years. The Government expressed the hope that local knowledge and self-interest would enable the committee to administer public works more economically than themselves. At the end of five years the Government promised to review the situation and if the financial position of the Government was satisfactory grants would be increased.

The Chief Commissioner also suggested certain changes in the constitutional structure of the district committees. Section 15 of the Local Rates Regulation laid down that not less than one-third of the committee should be non-officials. The Government of India suggested that the strength of non-officials should not be less than one half. This proportion had already been reached and in some committees non-officials constituted two-thirds of the total strength. The Government considering the travel difficulties fixed it at two-thirds and instructed the Deputy Commissioners to increase the non-official strength on the District Committee to two-thirds. It was suggested that Branch Committees should be retained.

As regards the division of powers and functions between the District and the Branch Committees, the former must make lump sum allotment of funds and transfer the executive responsibility of the latter. Thus the Branch Committee was the executive agency of the District Committee.

The Government placed at the disposal of the District Com-

A. The effect of this transfer was that the allotment to local public works increased from Rs. 3,87,000 in 1882 to Rs. 10,67,808 in 1882-83 in the eight plain districts.

mittees the entire local rates and not the five-eighths as before and also Government grants on account of public works and other localised expenditures. The grants-in-aid for purposes other than public works was also continued for the next five years.

From the above account it is clear that while the powers and functions of the District Committees were enlarged, there was also no fundamental change in the constitutional structure of the district committees. The rules issued under the Regulations of 1879 continued to be in force. [32]

Ripon Reforms : Almost immediately after the issue of the above Resolution the Government of Assam received the famous Ripon Resolution. Ripon is deservedly known as the father of modern Local Self-Government in India. To him goes the credit for giving more prominence to the idea of local self-government than to the idea of mere local taxes for local purposes, which was the dominant feature of the previous decade. The key-note of his resolution was that local self-government should be an instrument of political and popular education even at the risk of a temporary period of administrative inefficiency. He, therefore, laid down certain principles. *First*, there must be a net work of local authorities charged with definite duties and trusted with definite funds. *Second*, the jurisdiction of the local boards should be so limited in area as to guarantee both local knowledge and local interest on the part of members. *Third*, the chief executive officer of the district should not be the chairman of the local board. *Fourth*, non-officials should be the chairmen wherever possible and they should be elected as far as possible. *Fifth*, non-official members should be in a majority and the strength of officials in a board should not exceed one-third of the total and wherever possible, non-official members should be elected by rate-payers. Above all, the main function of the Chief Executive Officer of the district should be to watch the proceedings of the local bodies, call their attention to the neglect of their duties and remonstrate within them if they should exceed their powers.

Divergent views were expressed on these proposals. Almost

[32] No. 1912 Home—A 18-5-1882.

every officer rejected them.[33] Ward, the Commissioner of Assam Valley thought that the soil of Brahmaputra Valley was not fertile enough for local government institutions to flourish. "Not only are the respectable Assamese of this Division, as a rule" wrote Ward "insufficiently educated they are by nature devoid of that energy and those business like habits which are so needful to make a man a useful member of any committee to which he may be appointed. All this, I have no doubt will pass away in time, but we have to deal now with the existing facts.[34]

Ward also opposed the introduction of the system of elec-

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[33] No. 1784 Home--A: 2-11-1882. The Deputy Commissioner, Sylhet agreed with the proposals contained in the Ripon Resolution. The Deputy Commissioners, Cachar, Darrang and Goalpara were of the view that it was not expedient to make any change in the existing arrangement.

The Deputy Commissioner, Nowgong, suggested the division of the district into four thanas each thana having a nominated board. The chairman of the district committee should be elected by its own members. Officials should not be appointed members of the District Committees. The members of the district committee should be elected by the Thana boards. The chairman of the district committee should be elected by its own members. The District Committee should be responsible for the execution of public works.

The residents of Sibsagar at a meeting resolved that there should be a local board for each sub-division and a district board at the district headquarters. The members of the local boards should be elected directly. Property would be the basis of qualification both for members and voters. Elections should be conducted by a committee. The official strength on the board should not exceed ewo-eights Europeans one-eighth and non-official Indians five-eighths. The chairman should be chosen by the board. These proposals were rejected both by the Deputy Commissioner, Sibsagar and the Commissioner of the Assam Valley, though there was no reason for their rejection. The proposals were reasonable and reflect the progressive outlook of the people.

[34] Ibid.

[35] Ibid. Mr. Ward wrote " I have no hesitation in rejecting the elective system. The people are not sufficiently advanced to understand what such a system means. We do not wish to give the people the power to elect men who are not respectable, who are not educated and who have no capacity for."

tion, direct or indirect. [35] He was also opposed to the system of election subject to the approval of Government or the election of members being restricted to the candidates selected by the district officer as it was no way an advance on the existing system. [36] He insisted on the Deputy Commissioner continuing to appoint the members of the District Committees. But of course he should see that they were representative in character. However, if the Chief Commissioner was particular about the introduction of the elective system Ward suggested that it might be tried in the districts of Kamrup and Sibsagar.

As regards the Chairmanship, Ward insisted that the Deputy Commissioner should continue to be the chairman of the District Committee. [37] He however, suggested the appointment of a non-official vice-chairman "selected from the most intelligent of the members, who would transact a good deal of business under the supervision of the chairman and would thus go through a course of training which might qualify him for election to the office of chairman."

Resolution of the Government of Assam : After considering the views expressed by the district officers, the Government of Assam issued a Resolution on November 17, 1882, which decided

district; and it is scarcely worthwhile to introduce the elective principle into any district which affords little or no opportunity for the people's elective propensities, supposing they have any.

[37] Ibid. Ward wrote " The proposal to have a non-official chairman in any district is one which I cannot recommend for the present though we may possibly be able to see our way to this later on. Indeed, I think we may accept it as a fact that no native or even European would accept the post if offered to him except under a mistaken apprehension of the duties which would be required of him.

Darrang and Nowgong also.[38] Fourth, as regards the ex-officio members, the Chief Commissioner thought that the Deputy Commissioner should not be a member of the local board. If official assistance was necessary to manage the affairs of the board an Indian Extra Assistant Commissioner might be provided. But this view was not acceptable to his officers who were emphatically of opinion that the participation of the Deputy Commissioner in the administration of the local board was indispensable. The Chief Commissioner agreed with their view rather reluctantly. There was also another reason which induced him to follow the official line. The European members were dominating the boards to the prejudice of Indian interests. He thought that the presence of the Deputy Commissioner might facilitate free discussion and free expression of opinion. Besides the Deputy Commissioner there might be three others, the Civil Surgeon, the District Superintendent of Police and an Extra Assistant Commissioner as ex-officio members of the board. Fifth, a non-official might be the chairman. If an official was elected chairman, the vice-chairman might be a non-official. The official chairman however, should not vote but might give a casting vote in case of equality of vote. Sixth, the representatives of Planters might be elected, while others might be elected or nominated. Seventh, the term of office was fixed at two years but of the non-official members would retire every year. Thus, the local board was to be a continuous body. Eighth, the entire proceeds from local rates the ferry rents, the pound surplus and grants from the Provincial revenues should be assigned to the boards. Nineth, the local boards would concern themselves with the ex-

[38] 1784. General 2-11-1882. Sir Charles Elliot wrote " No measure could be more fatal to the prosperity of the province than any which would tend to alienate the powerful and energetic tea interest and to make its reprensatatives unwilling to continue that assistance which they have hitherto freely rendered with great benefit to themselves and the State. It is true that numerically they are for out numbered by the natives of the Province; but they control a labour force of no small magnitude and they own vast tracts of land.....Their interests lie in the improvement of communications and the cheapness of labour (which) are equally the interests of government.

ecution of public works and the management of the district post, primary education, medical charity, fairs, circuit houses, staging bungalows and the distribution of grants in aid to lower middle schools.

Working of Ripon Reformes : Thus, in 1882, the District Committee were abolished and the sub-divisional boards were established in their place. But these boards were constituted by a executive order and therefore had no legal basis. Their constitution was also apparently opposed to the express intention of the Local Rates Regulation which contemplated a general control of funds within the district by a district committee which would allot funds to the sub-divisional Branch Committees and supervise and control their expenditure.

The sub-divisional boards existed till 1915. During the period 1882-1914, several changes had taken place. In 1884, public buildings at the headquarters stations were transferred to the control of the Public Works Department. In 1887, sub-divisional public buildings and in 1890 all roads of provincial importance were taken over by the P.W.D. So also all ferries and rest houses on these roads were transferred from the local boards to the P. W. D. In the same year, it was laid down that all works costing more than Rs. 500 should be handed over to the P.W.D for execution. The decentralisation of powers and functions in 1881 was followed by centralization from 1887 onwards.

It must, however, be said that the sub-divisional boards had certain excellent features. Their jurisdiction was comparatively small, with the result that the members were acquainted with the needs of the whole area under their control. They evinced interest in the work of the boards. They spent money judiciously.

Defects : Yet, it must be said that the boards had their defects. *First*, as they were constituted by an executive order, they were not considered as local authorities for purposes of Local Authorities Loan Act, 1879. Therefore, they were unable to float loans for the construction of works of permanent utility with the result that they were compelled to postpone the execution of certain works indefinitely. In no other

province, excepting Burma, did local self-government rest on a foundation of mere executive order.

Second, there was no control over the execution of public works. The chairman had neither the time nor the training to enable him to exercise any real supervision over their execution. It was left entirely in the hands of the overseer, who prepared the estimates executed the works and paid bills. As the overseers were porrly paid and ineffectively supervised they were highly dishonest.

Proposals of Henry Cotton : How were the defects to be removed ? In 1897, Cotton, suggested certain reforms. *First*, there was to be a district committee in each revenue district with the Deputy Commissioner as the ex-officio Chairman, the senior Assistant Commissioner or the Extra-Assistant Commissioner at the headquarters, the Civil Surgeon, the Inspector of Works and the District Superintendent of Police as ex-officio members and two members to be elected by each sub-divisional board within its jurisdiction. One of the two members elected should be a representative of the tea planting community provided there were tea gardens within the sub-division concerned.

Second, the District Committee, could employ a district engineer to work under the control of its Chairman. *Third*, it could distribute provincial grants to all the local authorities within its jurisdiction and manage pounds. *Fourth*, the district post should be transferred to the control of the postal department. *Fifth*, all roads bridges, channels buildings and other property movable or immovable under the control of government might be transferred to the control of the District Committee. The District Committee might also undertake the construction of railway and tramways.

Sixth, to supervise local works Inspectors should be appointed who would also supervise the works of the District Engineer. In the Assam Valley, the Inspector would work under the supervision of the Commissioner and in the Surma Valley under the control of the Chief Commissioner. Seventh, the District Committee should be authorised to float loans for the construction of public utility works, to subscribe for debenture loans and to guarantee interest on the loans taken.

These proposals had a mixed reception. The local boards

themselves opposed them. They were afraid that their independence might be diminished with the establishment of district committees. The non-official members who had to travel long distances would not be able to attend the monthly meetings of the board regularly. With the result the proceedings of the board would be dominated by the official members. So, the idea of having district committees was abandoned.

Cotton, however, suggested that all the local boards in each district might join together and form a joint committee with the Deputy Commissioner as its chairman. The joint committee would appoint and apportion the services of the district engineer among the several local boards in the district. The Engineer would be under the control of the Inspector of Local Works. Disputes among the local boards in the district would have to be referred to the Deputy Commissioner whose decision would be final.

The Government of India, however, pointed out that the system under which all local public works and also large portions of provincial and Imperial works were being executed by the local board was a failure in Bengal. Since the Government of Assam proposed to adopt a system which had already been discredited in Bengal the Government of India advised the Government of Assam to wait until the settlement of the issue in Bengal where a proposal for the transfer of all public works to the P. W. D. was under consideration.

The Government of Assam did not agree with the view of the Government of India. It argued that the acceptance of the Bengal proposal would result in the annihilation of local self-government. It pointed out that there was no justification for the transfer of local works to the P. W. D., as it might diminish the importance of the local boards. It argued that if local works were to be transferred to the P. W. D. it would logically follow that the educational functions should be transferred to the education department, pounds and ferries to the Deputy Commissioner, medical functions to the Civil Surgeon and so on. Apart from this there would arise the anomaly of the officers of the P. W. D. spending the money of the boards without being responsible to them. So Government asserted that the adoption of the Bengal scheme would only result in the subversion of the principles enshrined in the Ripon Resolution. By implication,

the Government pointed out that if local self-government was not a success in Bengal it was due to the fact that the human material of which the Bengal District Boards were made of was not of good calibre. "The material of which the Assam Local Boards is constituted" said the Government "is certainly not inferior and probably is superior to the material available in Bengal and therefore there are good grounds for enlarging the liabilities and powers of the Assam Local Boards. It may be that the Executive Engineer will carry out local works more efficiently than a district engineer. But the Chief Commissioner could never accept this as a valid reason for reverting to the policy which was deliberately adopted after fullest discussion that the control of such interests should be entrusted no longer with the Government in the P.W.D. but to the local authorities."

Draft Regulations : On September 3, 1898, the Government of Assam submitted the draft regulation to the Government of India for approval. The main recommendations were *first*, that the administrative area of the local board should be the sub-division, *second*, each sub-divisional board should be in charge of the sub-divisional fund *third*, the Deputy Commissioner should be endowed with certain emergency powers ; *fourth*, the strength of the board should be less than twenty-four. Cotton thought that a local board consisting of twenty-four members would experience a number of difficulties. It would be unwieldy for the despatch of business. It would often be difficult to obtain a quorum. An adequate number of persons qualified to serve on the board might not be available. Above all, the interests to be represented were not many. So he fixed it at not less than nine and not more than eighteen and that the strength of the ex-officio element should not exceed one-fourth of the total strength.

Fifth, as regards the representation of Tea Industry, there would be no change in the principle laid down by Elliot in 1882. Elliot said that in the sub-division where the tea industry was important, half the number of non-officials should be its representatives. Accordingly he allotted six seats in each board in the district of Lakhimpur, Sibsagar, Nowgong, Darrang and Cachar and in the sub-divisions of Karimganj and South Sylhet to the tea planters community and two seats to the Sadr Board

of Kamrup and four seats to the Habiganj and the North Sylhet boards.

Sixth, the elective system would be confined to the tea planters only. The Indian members would continue to be nominated by the Deputy Commissioner. Goverment thought that the elective system introduced by Elliot did not work satisfactorily. So while it would not extend the elective system further, it would not abolish it in Sibsagar, Kamrup and Sylhet where it had already existed since 1882.

Seventh, there should be joint committees in each district consisting of two non-official representatives from each board in the district. The official members would be the Deputy Commissioner as the ex-officio chairman. the Inspector of Works and the Chairman of the various local boards within the jurisdiction of the committee. Cotton, however, hastented to assure the local boards that the joint committees would not be district boards in disguise. They would have no power of control, no property and funds. They would simply concern themselves with the appointment of the District Engineer. They would meet once a year to examine the public works programme of the various sub-divisional boards and would indicate the manner in which the services of the district engineer should be utilised by the various sub-divisional boards. Otherwise, the District Engineer would be under the control of the chairmen of the various sub-divisionaa boards. In case of a conflict of orders issued by the chairmen of two or more local boards to the District Engineer, the issue must be referred to the Deputy Commissioner whose decision would be final.

Eight, the Inspector of Works would be the professional adviser to the various local boards in the division. All works whose cost exceed Rs. 2,500 should be submitted for his scrutiny and technical sanction. The Executive Engineer of the Division would be the ex-officio Inspector.

Ninth, besides the normal functions which were generally entrusted to the local boards, they should be entrusted with the administration of vaccination, the construction of railways and the establishment of dispensaries.

Tenth, Government should be endowed with emergency and default powers. Further, the Deputy Commissioner would scrutinise the budget and submit it to the Commissioner of

Assam Valley or the Chief Commissioner as the case might be for final sanction. The existing arrangement was that the budget had to be submitted to Government for final sanction. Government thought 'that this business might profitably be entrusted to the Commissioner of the Assam Valley.

Eleventh, the local fund consisting of the whole of local rates realised in the sub-division, receipts from poundst ferry tolls and tolls on bridges and grants from the provincial revenues would be under the control of the local boards.

Twelfth, local audit would undergo certain changes. Under the then existing rules, the boards submitted their civil accounts direct to the Comptroller and the Public Works Accounts to the Executive Engineer, who after incorporating them in the accounts of his Division, submitted the consolidated accounts to the Examiner of Public Works Accounts for audit. All communications relating to these accounts between the examiner and local boards passed through the Executive Engineer. This dual system of audit was not free from defects. It entailed unnecessary delay in the disposal of objections. It did not infuse a sense of responsibility in the boards as there was no direct contact between the audit office and the boards concerned. Moreover, the system was costly. So Government suggested the appointment of an Examiner of Local Fund Accounts to audit all local funds. The auditor would audit all local accounts on the spot. These changes were intended to increase the efficiency of the audit system.

Thirteenth, the existing system of medical administration was inefficient. So Cotton proposed that all dispensarise should be placed under the control of boards. The conditions of service of the medical personnel would be improved by the payment of pensions and gratuities.

While approving the draft regulations, the Government of India suggested certain amendments. They pointed out that the opinion of the Inspector of Local Works on technical matters should not be disregarded by the joint committee, by the local board or even by the district engineer. The sanction of the Government ought to be obtained for all works costing Rs. 1,000 and more. Public works of Provincial importance should not ordinarily be transferred to the control of local boards. The ac-

counts of expenditures on public works should continue to be audited by the Examiner of Public Works Accounts.

The amended draft regulations were subject to a good deal of criticism. First, the position of the district engineer would be unenviable. He would be the Draupadi in Mahabharat with five husbands—a servant of five masters namely the Inspector of Local Works, the Sub-divisional Boards, the Joint Committee, the Deputy Commissioner and the Commissioner. There would be friction between the boards. Second, the area of the District Engineer would be the whole district. Third, Further, the joint committees would be artificial lacking the necessary vitality. Thus Cotton was compelled a second time, to abandon his favourite idea of having a district committee and a district engineer. In the light of the criticism of his proposal he amended the draf regulations. He suggested that each local board should employ a supervisor. The Executive Engineer would be the ex-officio Inspector of Local Works whose technical sanction must be obtained for all works whose cost exceeded Rs. 1,000.

While considering the draft regulations the Government of India pointed out that the entire position in regard to the reform of local self-government was affected by the proposal of the Government of India to partition Bengal. In the event of transfer of Chittagong, Dacca and Mymensing to Assam, there would be, in the south of the Province, in the territory so transferred, district boards under the Bengal Local Boards Act which assigned them relatively a subordinate position ; while in the Brahmaputra Valley and in the districts of Sylhet and Cachar, there would be, if the draft regulations under consideration were passed into law, a system of local self-government based on local boards in which district boards found no place. There would thus be two different Acts resembling each other in detail but differing in principle. It was probable that in such an event, it would become necessary to amend either the law inherited from Bengal or the Assam Local Rates Regulations or both. Moreover, if the Draft Regulations were promulgated, while the discussion regarding partition was proceeding, the opponents of that proposal would possibly point out to it as in illustration of what the inhabitants of the transferred territory would expect as soon as partition was completed. In these circumstances, the

Government of India suggested to the Government of Assam that the existing system of local government might be continued[39]

Meanwhile, there was a change in the Chief Commissionership of Assam. If Cotton had continued to be the Chief Commissioner for another year, perhaps he would have brought into force the amended Regulations. Unfortunately for Assam, he was succeeded by an unsympathetic and autocratic ruler in Bamfylde Fuller who agreed with the view of the Government of India.[40] Thus ended in smoke all the efforts of Cotton to reform the Local Boards. Besides this, the changes introduced by Bamfylde Fuller in the existing constitutional structure of the local boards were of reactionary character.[41] The official composition of the local boards was retained. So also the representation of tea planters. As regards others, a certain number would be nominated in order to secure the services of efficient persons. One would be elected by the voters at headquarters station, another by the mercantile community and some others by the choukidari panchayats or by the gaonburas where the choukidari panchayats did not exist.[42] The entire scheme, particularly the election of members by the gaonburas (village headmen) was vehemently opposed by officials and non-officials but the protests were of no avail.[43] The partition of Bengal and

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[39] The following documents were consulted to study Cotton's proposals: Resolution No. 242 G. Home 14-5 1897.

Letter No. 144, Home—A. May 1898.
Letter No. 4349, G. Home May 26, 1898.
Letter No. 14, Home 5-8 1898 Government of India.
Letter No. 6642, G. 3-9-1898.
Letter No. 38, Home A. Local Boards Simla 4-10-99.
Letter No. G. Shillong 1-1-1899.
Letter No. 3214 G. Shillong 30-4-1901.
Letter No. 22, Home (Simla) 6-6-1904.

[40] Letter No. 176 LSG. 1904 & Letter No. 2265 G. 24-6-1904.

[41] Letter No. 176, LGS 24-6-1904 & Letter No. 183 IGS 30-6-1904.

[42] Ibid.

[43] Ibid. See the letter of Major Kennedy, Deputy Commissioner. Silchar; Letter from P. C. Melitus, Commissioner of the Assam Valley; Letter from Manik Chandra Barra, Gauhati.

Resolution 15, of 14-1-1882. In 1882, there was no uniformity in the appointment of goanburas. In some districts there was only

the attachment of Assam to East Bengal put an end to all further reforms in the constitutional structure of the local boards.

Proposals of the Decentralization Commission: The Viceroyalty of Lord Curzon (1898-1904) witnessed excessive centralization. Curzon honestly believed that Indians did not possess the necessary ability to govern themselves. Morley was alarmed at the process of centralization that was taking place. So a Royal Commission was appointed in 1907, with Hobhouse as its Chairman. After four years of labour it produced a voluminous report and the Government took an equal number of years for its consideration.

Let us consider the recommendations of the Commission together with the views expressed by the Government of Assam thereon. *First* the Commission recommended that the administrative areas of the local boards should not be unweidly. This recommendation was not applicable to Assam because each subdivision had already a local board and the local boards worked satisfactorily because of the compactness of the area and also because of the fact that the resources of the areas were administered by persons who had a knowledge of their needs.

Second the Commission observed that the administrative duties already assigned to local boards were large and therefore should be curtailed but the boards should have a greater amount of freedom in the administration of functions left in their hands. The Commission also observed that the services for which they paid should be controlled by them. Government accepted this recommendation.

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one gaonbura in charge of three and sometimes in charge of five villages. In no district did they receive Parwana of appointment. At the same time in every village there was a man who through his influence occupied the position of a gaonbura. The original intention with which these officers were appointed was to improve the record of vital statistics by entrusting the gaonburas with the function of reporting all domestic occurences a duty which they performed with much grumbling, and little efficiency because they were not paid. So the Chief Commissioner came to the conclusion that in every village there should be a person to whom the administration can look to carry out its orders and to procure the information required. In return for the services rendered by the gaonburas they must be given a parwana in an ornamental form and certain amount of rent free land.

Third, the Commission recommended that roads of provincial importance should be maintained by Gvoernment but the main roads should be under the control of local boards and the roads of minor importance under the control of the sub-district boards. The Government of Assam thought that it would not be desirable to lay down any hard and fast rule on the subject. However, it accepted the recommendation.

Fourth, the Commission said that the district boards should have their own engineers provided their financial condition permitted it. Otherwise, the execution of words should be entrusted to the P.W.D. The Government of Assam thought that each board should normally have an engineer of its own. If a single board was not in a position to employ an engineer, a number of boards might join together and appoint one. The Engineer would be under the administrative control of the board.

Fifth, the Commission also recommended that the boards should have full powers in the allotment of funds and in the approval of estimates of public works. The Government of Assam contended that the removal of all restrictions as suggested by the Commission was not in the interests of the rate-payers.

Sixth, the Government accepted the proposal of the Commission that the execution of governmental works might be entrusted to the District Engineer.

Seventh, the Commission suggested that hospitals at the district headquarters should be taken over by Government and all other hospitals and dispensaries in the rural areas should be placed under the control of local boards. Government did not agree with the first part of the proposal. As regards the second part Government had already placed all the hospitals and dispensaries in rural areas under the control of the local boads. It, however, agreed that local boards might be permitted to have their own Assistant and Sub-Assistant Surgeons with the approval of the Inspector General of Civil Hospitals.

Eighth, the recommendation of the Commission that local boards should take over vaccination and appoint vaccinators and that the supervision of the vaccenation work should be entrusted to Government, was not applicable to Assam, because the arrangement suggested by the Commission was already in force.

Ninth, while accepting the recommendation of the Commis-

sion that sanitation in rural areas should be the concern of the sub-district boards, Government observed that rural sanitation might be entrusted to Panchayats and that they might be paid grants for the purpose by local boards. Some of the local boards had already introduced this plan in some areas as an experimental measure.

Tenth, the Commission recommended that the existing restrictions in regard to the sanction of sanitary works might be abrogated. But Government suggested that all sanitary works whose cost would be Rs. 10,000 and above must be placed before the Sanitary Board for its sanction. Others should be placed before the Commission. The sanction of the Deputy Commissioner should be obtained for works whose cost exceeded Rs. 500.

Eleventh, the Commission recommended that the veterinary work should be entirely provincial. The Government of Assam insisted on the retention of the arrangement then existing under which local boards paid two-thirds of the cost of the veterinary establishment.

Twelfth, the Commission suggested that the boards should have nothing to do with faminic relief. But the Government of Assam contended that the rural boards should not be entirely disassociated from this responsibility.

Thirteenth, Government did not accept the recommendation of the Commission that the boards should be responsible for the registration of births and deaths and for the destruction of dangerious animals.

Fourteenth, the Cmmission suggested that local boards might be permitted to levy a tax on railways and tramways; that their resources might be augmented by making over to them the entire net proceds of land cess, by relieving them of some of their functions and by the distribution of grant-iin-aid at the rate of 25 percent of the land cess collected within the area of the board concerned and by increasing this grant wherever necessary. The Government of Assam replied that local rates had already been made over to the local boards and that Government had already set apart fifteen lakhs rupees for the improvement of communications in addition to the annual grants already sanctioned to them.

Fifteenth, the recommendation of the Commission that the

loan policy of the local authorities should be subject to the control of the local Provincial Government was accepted. But the proposal that boards should have full powers to pass their budgets subject to the maintenance of a prescribed minimum balance was not accepted. Nor did Government accept the recommendation that boards should have complete freedom in regard to the reappropriation of amount already budgeted. But it accepted the recommendation that portions of the budget relating to education, sanitation and medical relief should be sent to the heads of the respective departments at the headquarters.

Sixteenth, dealing with the constitutional structure of the local boards, the Commission recommended that the boards should contain a substantial majority of elected members. The principle of nomination might be retained to secure the representation of the minorities. Government said that local boards were already largely elective and as far as possible the principle of having an elective majority would be followed. As regards communal representation Government set its face against it. "Taking the province as a whole" wrote the Chief Commissioner "I am inclined to think that the need for communal representation is not urgent and that it would be good to avoid it if possible."

Seventeeth, the Commission recommended that the chairman of the local boards should be the Deputy Commissioner. He must, however, simply guide and not rule them. But the Government of Assam contended that the Deputy Commissioner should always be the chairman of the local boards within his jurisdiction.

Eighteenth, the Chief Commissioner did not accept the recommendation of the Commission that the proceedings of the board should be conducted in the vernacular of the region. Government insisted that English be used for the conduct of meetings, perhaps to enable the representatives of the Tea Planter's community to follow them with ease.

Thus, practically most of the recommendations of the Commission were rejected. The labour of four years and the enormous expenditure on the Commission went in waste so far as Assam was concerned.

Assam Local Self-Government Act, 1915: After the annulment of partition in 1912, the local boards in Assam were given a legal footing by the Assam Local Self-Government Act, 1915. The Act, followed to a great extent the principles laid down in the Draft Regulations of 1899, issued by Cotton, though some of its provisions were borrowed from the Madras Local Boards Act.

The main features of the Act were *first* the Local Boards were authorised to appoint District Engineers, Health Officers and Sanitary Officers. *Second*, it prohibited salaried government servants from contesting the office of vice-chanirman. *Third*, provision was made for the appointment of Committees consisting of persons who were not members of the board. *Fourth*, two or more boards were permitted to combine together for the appointment of common establishment. *Fifth*, the board were permitted to levy tolls on new bridges and to manage primary and secondary education. The draft regulations of 1899 permitted the local boards to float loans in the open market but this was omitted in the Act because the Local Authorities Loan Act 1914, was already brought into force. Finally the Act also provided for an elective non-official majority and for the election of a non-official chairman and vice-chairman. It prescribed the disqualifications of the members of the foard.

A new feature of the Act was that local boards were authorised to levy a special tax for the construction of railways. This provision was borrowed from the Madras Local Boards Act, 1884. But it was subject to several limitations as in Madras. A local board which desired to levy a railway cess had to pass a resolution to that effect by a two-thirds majority of its total strength. The resolution had to be confirmed by a like majority after six months.

Resolutions of 1915 and 1918. In 1915, tte Government of issued a Resolution which was based on the main recommendations of Decentralization Commission. In 1918, another Resolution was issued for the advancement of local self-government. It laid down that a substantial majority of the members must be elected ; representation of the minorities must be secured by means of nomination ; official members of the board were to have the right to participate in the proceedings of the board but

they were not to have the right to vote ; the number of nominated members was not to exceed one-fourth of the total ; the principle of cooption could be used to enlist the services of efficient persons who were not willing to contest election ; franchise was to be as wide as possible ; where this was not possible non-official members could be nominated ; the boards were to be given the power to levy rates and fees at their discretion within the limits imposed by law ; the local boards could control the services which they maintained at their expense ; each local board was to set apart five percent of its revenue for expenditure on rural sanitation and that the existing restrictions on local boards could be relaxed.

All this was old wine in new bottles. Most of these recommentations had already been made by the Decentralization Commission and were rejected by the Government of Assam. The Government did not take any action beyond what it had already done before.

Local Self-Government Act, 1926 : In 1924, the Assam Legislative Council appointed a committee to suggest amendments to the Assam Local Self-Government Act, 1915. Most of the amendments suggested by it were embodied in the Local Self-Government Act, 1926. The Committee recommended that all members of the board must be elected ; government might nominate officials to supply expert advice ; the chairman of local board was to be normally elected or the board might request the Government to appoint a chairman. In order to enable the board to provide better communications, protected water supply and other public needs, they were authorised to levy a tax on carts, carriages and other vehicles using their roads. Provision was also made for the establishment of toll bars on metalled roads for the recovery of the cost of metalling them. The bill did not provide for the retention of the nominated element. The select committee, however, recommended that Government should have the power to secure the representation of minorities by nomination. The Local Self-Government Act was amended on several occasions and in 1953 it was revised.

Assam Panchayat Act, 1959 : Six years after its revision, the need for a new Act was felt for obvious reasons. During

the struggle for National Independence the leaders repeatedly told the people that the Government of Free India would improve the living conditions of rural areas. In fulfilment of this pledge, Government introduced the Community Development and National Extension Service Programme. Its aim was to assist each village in carrying out an integrated plan for increasing agricultural production, improving village crafts and industries, organizing new industries and providing minimum health services while improving the existing health services. But the progress of the programme, in many places, was tardy largely on account of lack of cooperation from the villagers. The problem before the Government was how to instil enthusiasm in the rural population which formed three-fourths of the total so that they could actively participate in the work of natinoal development. Evaluation reports on the working of rural extension projects indicated that while the people welcomed the provision of a few amenities, mostly by official initiative, popular interest cooled off after two or three years. It was, therefore, thought that local interest and supervision and care were necessary to secure economical expenditure of money on development schemes and that these would not be forth-coming unless there were representative and democratic institutions endowed with adequate powers and finance.

The First Five Year Plan observed " in brief, from now on, the primary emphasis in district administration has to be on the implementation of development programme in close cooperation, with the active support of the people. Apart from the problem of finding personnel for the higher position in the district and the problem of adopting the administrative system to the temper of the democratic government, the reorganization of the district administration has to be provided for strengthening and improving machinery of general administration, establishing an appropriate agency for development, at the village level, which derives its authority from the village community, integration of the activities of the various development departments in the district and the provision of a common extension organization, linking up in relation to all development work of local self-government institutions with administrative agencies of the State Government and regional coordination and supervision of the district development programme."

Further it said "Democratic planning presupposes an overall unity of policy, combined with proper diffusion of power and responsibility. In such planning, not only the Government of States but also local self-government institutions such as municipalities, district boards and taluq boards and panchayats and various functional organizations have to play a vital part. Measures to promote a healthy growth of such institutions are therefore an integral part of planning. We visualise that in due course it will be possible for the panchayats and other local, regional and functional bodies to participate actively in the preparation of plans."

The Second Five Year Plan laid stress the need for a well organized democratic structure of administration in which village panchayats would be organically linked with popular organizations on a higher level. The popular body would be responsible for the entire general administration excepting in regard to law and order, the admnistration of justice and certain other functions relating to revenue administration and responsible for the development of the area.

The Planning Commission said that steps should be taken to reorganize the administrative set up with a view to galvanize public opinion and develop in the people the spirit of self help and initiative so that demotratic bodies might take over the judicial and certain other functions relating to revenue administration.

Mehta Committee Report: To study this question, the Committee on Plan Projects appointed a committee known as the Mehta Committee. The Mehta Committee reported that the existing local boards in the rural areas were not capable of discharging their new duties because they had neither the tradition nor the resources to take up this wor.k For instance, the jurisdiction of the existing district boards was too large to bestow attention to details. Nor was it possible or practicable to link village panchayats with district boards because each district contained several hundred of panchayats. The bl ock advisory committee was generally a nominated body performing advisory functions. Further, they were unrepresentative in character and lacked the power and prestige of an elected body. The District Planning Commission was even less influential than the block advisory committees.

So the Mehta Committee recommended ' democratic decentralization ' with a three tier system and a real devolution of powers and resources. That is, each development block should have a panchayati samiti. Above the Panchayati Samiti there would be Zilla Parishad. At the bottom, there would be the village panchayat.

The three tier system of local government in rural areas suggested by the Mehta Committee was not a novel one. It was suggested by Sir George Campbell, the Lt.-Governor of Bengal, as early as 1871, though it was vetoed by the Governor-General in Council. Luttman Johnson, an enlightened Deputy Commissioner of Sylhet made a similar recommendation in 1879 but it was rejected by the Government of Assam. It was suggested for a third time by Lord Ripon and then by the Decentralization Commission. Since 1882, there was a three-tier local government system in some parts of India but not in Assam.

The Mehta Committee recommended that the Panchayati Samiti should be entrusted with the development functions such as the development of agriculture, improvement of live stock, promotion of local industries, supply of drinking water, public health and sanitation, medical relief, relief of distress caused by natural calamities, pilgrimages and festivals, communications, management of schools, welfare of women and children and of the backward classes, fixation of wages under the Minimum Wages Act, collection of statistics and the maintenance of high schools and roads, approval of budgets of the goan panchayats, development of small forests, watch and ward, and agency functions that might be entrusted to them by the State Government.

The Zillah Parishad should be entrusted with the following functions, the examination and approval of the budgets of the panchayati samities, the distribution of grant-in-aid among the panchayati samities, the consolidation of the demand for grant-in-aid for special purposes by the panchayati samities and forward them to Government, the supervision of the activities of panchayati samities and the maintenance of discipline in regard to specified categories of the staff of the samiti. But the Parishad would have no executive functions. It would co-ordinate the functions of the samities and replace the existing District Planning Committee. It would be the channel of communication between the Panchayati samiti and Government.

The Goan Panchayat, the Mehta Committee recommended, would concern itself with water supply for domestic purposes, sanitation, maintenance of panchayat roads, improvement of housing, public health, land management, cattle pounds, supervision of primary schools, organization of welfare of women, children and backward classes, collection of statistics and maintenance of records and perform the agency functions that might be entrusted to it.

As regards the constitutional structure of the local bodies, the Mehta Committee suggested that some of the members of the Goan panchayats should be elected by adult franchise. Besides the elected members, two women and one representative from the Scheduled Castes and another from the Scheduled Tribes should be coopted. The panchayat should have a president. The judicial panchayats should consist of persons selected by the Sub-Divisional or District Magistrate out of a panel of names suggested by the village panchayats of the circle concerned.

The Panchayati Samiti would consist of members elected by the village panchayats and municipal boards within its jurisdiction. Further, ten percent of the elective seats might be filled up by the representatives of the co-operative societies functioning within the juirsdiction of each samiti. The total strength of the samiti would be about twenty-five. The Sub-Divisional Officer should be the chairman of the samiti during the first two years of its life. The term of the Panchayati Samiti should be five years.

The Zilla Parishad should consist of all the presidents of the panchayati samiti comprised within the district, all the members of the State Legislature and of Parliament representing the Parishad area in the respective legislatures and the District Officers of the departments of medical, public health, engineering education, and other development departments. The Deputy Commissioner should be the chairman of the Parishad and one of his officers would be its Secretary.

The executive functions would be entrusted to an official except in the case of village panchayats.

As regards the sources of income, the village panchayat would derive its revenues from house tax, taxes on markets and vehicles, octroi or terminal taxes, income from cattle pounds, fee

for the registration of animals sold within the panchayat area, grants from the Panchayati Samiti, commission if any, for the collection of land revenue and three-fourths of the net land revenue from the samiti assinged to it.

The Panchayati Samiti would derive its income from the following sources, a specified percentage of land revenue, tax on professions, trades, surcharge duty on transfer of immovable property, net proceeds of tolls and leases, pilgrim tax, tax on entertainment, primary education, cess, proceeds from fairs and markets, a share of the Motor Vehicles Tax, voluntary contributions, grants made by government and rents and profits from its properties. Besides these, all central and State funds spent in the block area should be assigned to the samiti to be spent by it directly or indirectly.

The Zilla Parishad would have no funds, no budget and no revenues because it would not be entrusted with any executive functions.

These were the main recommendations of the Mehta Committee which were accepted with slight modifications. In making these recommendations, the committee was not guided by theoretical but by practical considerations. Democratic government operating over a larger area cannot adequately appreciate the local needs and circumstances. It is, therefore, necessary that there should be devolution of powers and decentralization of machinery. That is, Government should devolve upon the panchayati samiti most of its functions reserving to itself the functions of guidance, supervision and higher planning. The Committee thought that such devolution would not only speed up food production and promote better living but give a real content to and provide a training ground for democracy. The committee admitted that such devolution of responsiblities and the consequent decentralization of the executive power might result in a fall in efficiency. But it thought that in the long run decentralization and devolution of functions would produce beneficial results. Rural development and rural welfare are possible only with local initiative and local discretion. If therefore, there was a fall in efficiency such fall would no doubt be temporary.

The National Development Council approved the recommendations of the Mehta Committee. But the Central Council of Local Self-Government Ministers said that while the broad

pattern and fundamentals might be uniform there was not to be any rigidty in the pattern. The country was so large and panchayat Raj was so complex a subject with far reaching consequences that there must be fullest scope of trying out various patterns and alternatives. The Council urged that the most important thing was the genuine transfer of power to the people according to the conditions prevailing in different States.

This recommendation largly determined the policy of the Government of India in the matter. Accordingly, there has been no insistence on the States to follow a given or prescribed form. Only certain basic principles have been emphasised. They are:

1. It should be a three tier structure of local self-government bodies from the villages to the district and bodies being organically linked up.
2. There should be genuine transfer of power and responsility to them.
3. Adequate resources should be transferred to the new bodies to enable them to discharge these responsibilities.
4. All development programmes at these levels should be channelled through these bodies.
5. The system evolved should be such as would facilitate further devolution and dispersal of power and responsibilities in future.

While accepting these principles, the Government of Assam evolved its own system of rural government. The Assam Panchayat Act, 1959, brought into existence a three tier organization. At the village level the existing primary panchayat would be named as Gaon Panchayat. The constitution of goan panchayat would be the same as before while their functions would be fairly similar to those that existed—only they would be spelled out in greater detail. In between the gaon panchayat and the Mohkuma Parishad, the main executive agency was created. This is the Anchalik Panchayat whose area is coterminous with that of the existing community development block. It consists of representatives of the goan panchayats within its jurisdiction, members of the Assam Legislative Assembly representing the area concerned and also representatives of co-operative societies. It lays down the general principles and programmes to be executed.

While the Anchalik Panchayat is the main organizational

agency responsible for the overall development of the area under its jurisdiction, the Gaon panchayat is the actual executive agency for the village schemes. Besides, these units, however, there is also the Mohkuma Parishad in each sub-division. It replaced the sub-divisional Development Board and the local board. It concerns itself with the co-ordination and consolidation of block programmes, with the examination and approval of the budgets of the Anchalik Panchayats and with the distribution of grants-in-aid to the Anchalik Panchayats. The bill provided that the Deputy Commissioner or the sub-divisional officer as the case might be shall be the chairman of the board. The select committee omitted this provision in deference to public opinion. The Act was brought into force in 1960. The Act was amended in 1961 and 1962. In 1963, Government appointed a study team consisting of two ministers and four officers to study the Working of Panchayat Raj in Andhra, Madras, Maharashtra and Orissa. The team recommended that the Anchalik Panchhayat should be held responsible for the preparation and implementation of block plans; that provision should be made for the transfer of some village level schemes to the goan panchayat for execution as agents of the Anchalik Panchayat; that community development funds should be transferred to the Anchalik Panchayat as grants; that the departmental schemes which can be implemented should be transferred to the Anchalik Panchayats. These recommendations were embodied in the Assam Panchayat (Amendment) Act, 1964.

CHAPTER VI

LOCAL GOVERNMENT IN HILL AREAS

In the Hill areas there appears to have been real local government than in the plains. There are five major tribes in Assam. Each had its own system of Government.

The Mikir Hills : In the Mikir Hills every village had a Mel or a council presided over by the gaonbura. The Mé was composed of all the male house holders. The gaonbura was chosen for his personal character by the house holders. The Mé was summoned by the gaonbura. It decided all disputes and inflicted small fines. In addition to Me, there was an inner council-Mé-pì, the Great Council, consisting of the gaonbura and presided over by a mouzadar or head gaonhura. The Mé-pi dealt with grave matters such as adultery, and witch-craft.[2]

The Mizo Hills : In the Lushai Hills (now called Mizo Hills) every village had its own Lal or chief. In theory the Lal was a despot. He was assisted by Upas (elderly men). The Lal and the Upas constituted a kind of council which discussed all matters of general interest and decided all disputes between the people of the village. The Lal presided over the council. The strength of the council is not known. Perhaps it varied according to local conditions. Besides the Upas, the Lal appointed other officers, Ramhal and Tlangam. The former advised the Lal as to where the jum should be cut. The latter was the crier who proclaimed the orders of the Lal. He was also responsible for the efficient management of collection work. The position of the Lal depended upon his personality. In any case, every Lal was bound by customary law.[3]

The Garo Hills : In the Garo Hills, we do not find the same elaborate organization that we find elsewhere. After annexation by the British, Laskars were appointed and they acted as a kind

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[1] Mé is Mel used in the plains. The Mikirs cannot pronounce the final letter 'l' and always omitted it.

[2] Stack : The Mikirs p. 22.

[3] Shakespear : The Lushais p. 43.

of rural police and also as honorary magistrates. They were also empowered to deal with all minor matters and settle unimportant disputes. The Laskars summoned the meetings of the villagers for the settlement of disputes and presided over them.[4]

The Khasi Hills : Of all the tribes the Khasis had a well developed local government institutions.[5] In 1853, there were twenty-four Khasi chieftains but the most important of them were the Raja of Cherra, the Raja of Mylliim, the Raja of Maram, the Raja of Khyrim, the Raja of Nusting and Nishping. The first and the last two exercised civil and criminal jurisdiction over their territories. The British Government did not interfere with their administration though they had a right to interfere so far as the villages of Moosamai, Sobhar and Mamloo were concerned. These were under Sardars who had jurisdiction over petty cases, civil and criminal.

In the Jaintia Hills, there were 23 Dullias and sardars. Each sardar had jurisdiction over a number of villages and exercised jurisdiction over small civil and criminal cases within their jurisdiction. The Dullias were also known as Pattors. Under the Pattors, there were priests. All suits at first came to the priest. An appeal could be taken to the Pattor and from there to the Dullai and finally to the Agent.

In 1853, the form of government according to Rev. Lewis was a mixed one. The chief exercised despotic power. But in some places he had only limited powers.

According to tradition the Khasi state was formed by a voluntary association of villages or groups of villages. Its head was the Siem or the Chief. The Siemship usually remained in

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[4] Playfair : The Garos p. 74.

[5] Mills : The Report on the Khasi and Jainta Hills. The Khasi Hills came under the control of the Company in consequence of the massacre in April 1829 of the two British subjects and some others who were residing in Nungklow under the terms of a treaty made by Scott, the first Commissioner of Assam, with the Khasi Chiefs some eighteen months before. To avenge this atrocity, military expedition was undertaken against the perpetrators and brought the Khasi Chiefs to their senses. Shortly, after this the Jaintia Hills belonging to the Raja of Jaintia were annexed in consequence of the part he played in the abdiction of the native British subjects for the purpose of human sacrifice.

one family but the succession was originally controlled by a small electoral body constituted from the heads of certain priestly clans. Later on, there was a tendency to broaden the elective basis.

The Siem exercised limited powers. According to custom, he should consult and obtain the consent of the Durbar, consisting of the Mantris.[6] In some places the members of the Siem's family had a considerable share in the management of State affiairs. The Siem's principal source of income was the toll, levied and collected on the products brought for sale in the markets and the licence fee for the sale of liquor.

The Siem is appointed from the Siem family and the heirship to the Siemship is through the female side and the line of succession was uniform in all cases except in Khyrim. Generally, sons of the eldest uterine sister inherit in order of priority of birth. In the absence of male heirs from the eldest sister, the male children of the next eldest sister inherit the Siemship. In the Khyrim State, the Siem must be selected from the male relations of the high priest.

Originally, the succession was controlled by a small electoral body consisting of Lyngdohs of certain priestly clans. This body sometimes rejected certain candidates on religious grounds. Later on, there was a tendency to broaden the basis of the electoral college by the addition of sardars and basans. In some places, there was popular election at which all adult males participated. Popular election was resorted to when the electoral body could not come to an unanimous decision. The durbar was considered to be a divine institution and the Siem chosen by it was known as **Ki Siem U Blei**—Siem of God.

In the Khyrim or Nonkren State, there was a spiritual head—a high priestess—**Ka Siem Sad**—who was responsible for the performance of certain religious functions. She delegated the temporal functions to her son or nephew. The procedure for the

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[6] Gurdon: Khasis: The durbar consisting of mantris is distinct from the electoral Durbar. It was an executive Council over which the Siem presided.

See L.S.G.-A December 1910. When the Government of Assam proposed to include the area between Umshyrpi and Umkhrah rivers near about Shillong withn the municipal limits of Shillong it consulted the Siem of Mylliim who controlled the territory. The Siem called for a durbar of mantris which laid down certain conditions.

appointment of the high priestess was as follows. The Lyngskor proposed a new Siem to the six Lyngdohs or priests and to the twenty-four mantri clans. The latter decided in Durbar, whether the proposed Siem should be elected. They had absolute right to reject the nomination of the Lyngskor and elect another as Siem. The order of succession was as follows. She was succeeded by her eldest surviving daughter, failing daughters, by the eldest daughter of her eldest daughter, failing that by the eldest daughter of her second daugther and so on. If there were no daughters and grand daughters, she was succeeded by her eldest sister and so on. But the electors might disqualify any heir to Siemship for sufficient reasons. If the first was disqualified the next was preferred.

In the Mylliim State, the electoral college consisted of the heads of five mantri clans, eleven matabors or heads of clans and certain Basans and other heads of the clans. The Siem must be elected by an absolute majority. As regards succession, a Siem was succeeded by the eldest of his uterine brothers, failing such brothers, by the eldest of his sister's son, failing that by the oldest of the sons of his sister's daughter, failing that by the eldest of the sons of his mother's sister, failing that by the eldest of his male cousins on the female side, those nearest in degree of relationship having prior claim. If there were no male heirs as stated above, he would be succeeeded by the eldest of his uterine sisters. In the asbsence of his sisters, by the eldest of his sister's daughter, failing that by the eldest of the daughters of his sister's daughter, failing that by the eldest of his female cousins on the female side, those nearest in degree having prior claim. A female Siem would be succeeded by her eldest son.

In the Nongstoin State, there was a large electoral college consisting of the mantris, thirty-one Lyngdohs and twenty-five sardars, Lyngskor and one Basan. The Lyngdohs were the heads of the priestly clans by whom they were chosen. The Sardars were chosen by the Siem. Lyngskor the agent of the Siem for the collection of revenue was appointed by the Siem with the approval of the male adults of the village.

In the Langrim State, all the adults had the right to vote at the election of the Siem. In Shoing, Mowphlang and Lyniong the Lyngdoh was elected from the Lyngdoh Clan by all the adult males. In Maodou and Pomsanngnt, the Sardars

were elected by adult males. In Mawlong, the Sardars, the Lyngdohs and the Dalai were elected by all adult males. In the Shella Confederacy there were four Wahdadars who were elected by the people for a term of three years. In the Jaintia Hills, all the Dolois were elected by the people. In the Rambrai, the Siem was nominated by three Lyngdohs and two Mantris and placed the nomination before the Durbar consisting of Sardars for its approval. If the Sardars did not approve the nomination then a combined Durbar consisting of Sardars, Lyngdows and Mantris decided the election. In the Mawlong the six Basans selected the Siem and placed the nomination before the adult males of the State for their approval. In Mawsynram the heads of the four principal clans selected the Siem. In case of a difference of opinion, an appeal was made to the adult males among the people.

So the position prior to independence was as follows. There were twenty-five chiefs who exercised limited powers. In some States, the succsesion of Siemship appears to be hereditary but in most states, the Chief by whatever name he was known, was elected either by an electoral college or by all adult males, the election in many cases being confined to members of certain families known as the Chief's families. But whether the succession was hereditary or an election bv an electoral college, or by the people, the recognition of the British Government through the representative of the Crown was necessary before the Chief could exercise any of his customary powers and this was conveyed by means of sanads granted to him. Further, the British Government through the Crown's Representative as Paramount Power reserved to itself the right to remove the chief in case of oppression misconduct or dereliction of duty. Before taking such an action the wishes of the Durbar were consulted. The Chiefs were also under the control of the Deputy Commissioner of the Khasi and Jaintia Hills. In other words, the Khasi and Jaintia Hills were autonomous subject to certain limitations like the local authorities. They were not sovereign independent States.[7]

This was the position on August 15, 1947, when India be-

[7] Cajee, Chief Executive Member vs. C. Jormanik Siem and another C.A. 894, 1960.

came a Dominion and Paramountcy of the British Government lapsed. The twenty-five Khasi states established a federation which acceeded to the Dominion Government by an Instrument of Accession which was accepted by Governor-General on August 17, 1948. By this Instrument the Chiefs individually as well as collectively, as members of the federation agreed that the existing administrative arrangements between the Government of India and the State of Assam on the one hand and the Khasi States on the other, were to continue until a new or modified arrangement was made, subject to certain exceptions such as the administration of justice. By this Instrument, the Dominion and the State (Assam) Legislatures obtained power to pass laws on subjects of common interest.

The Hill Tribes made exorbitant claims. Most of them claimed an independent status, the relations between them and the Government of India being governed by a treaty. In the Mizo Hills, the demand was that the district should manage all its affairs with the exception of defence in regard to which it would enter into an arrangement with the Government of India. In the Naga Hills, the original resolution passed at Wokho contemplated the administration of the area like any other part of Assam. Subsequently, however, the Nagas demanded an interim government of their own under the protection of a benevolent guardian power which would provide funds for development and defence for a period of ten years after which they would decide what they would do with themselves. In the Garo Hills, the demand was that the District Council should be entrusted with all powers including taxation and the administration of such subjects as higher education. The Khasis suggested a federation of the states which would include a portion hitherto held by the British. Otherwise, the demand of the Khasis was similar to that of the Garo Hills. In the Mikir and North Cachar Hills, the demand was limited to control over lands and the administration of justice.

The Constituent Assembly appointed the "North Eastern Frontier (Assam) Tribal and Excluded Areas Committees which recommended that in each of the Hill districts, a district council should be established with powers of legislation over occupation and use of land other than land comprising the reserved forests. The reserved forests must be managed by the State

Government in consultation with the wishes of the Hill Tribes. The District Council should have powers of taxation power to license money lenders or traders from outside, power to try criminal and civil cases, excepting those involving a punishment of five years and above, power to manage primary schools, dispensaries and other institutions. In the Mikir and North Cachar Hill districts the Sub-Divisional Officer should be the ex-officio chairman of the district council with powers to modify its decisions or resolutions.

In addition to the District Councils, there might be Regional Councils for different tribes inhabiting the autonomous district. The Regional Councils would concern themselves with the management of land and village courts. Finally, the Committee recommended adequate representation of the tribal areas in the State Cabinet.

The idea behind the scheme was to provide the tribal people with a simple and inexpensive administrative set-up of their own which would safeguard their customs and their way of life and secure them the maximum autonomy in the management of their characteristically tribal affairs. The Committee felt that the Tribal areas occupied a geopolitically important position and therefore the people living in these areas should be free from the fear of exploitation of domination by the more advanced sections of the people from the Plains. The Committee was also aware of the fact that the tribal people were sensitive about their land, forests, system of justice etc. It must, however be noted that conferment of autonomy did not mean the creation of small states within the State of Assam. This was made absolutely clear in the Constituent Assembly.

The scheme formulated by the sub-committee of the Constituent Assembly was embodied in the Sixth Schedule of the Indian Constitution. After the first general elections in 1952, the district councils were constituted in all the hill districts excepting in the Naga Hills district.[8]

[8] The Naga National Council demaded complete independence, and boycotted the Legislature. The Government of India did not agree to concede the demand. The hostile element among the Nagas took to violent methods. For about five years there were depredations and murders. Gradually, there was an improvement in the situation and over large areas in the Nagas districts peaceful conditions were estab-

Every District Council has a Executive Council consisting of the Chief Executive Member and two other members and a paid secretary. In some councils there is an additional Secretary in charge of the legislative business of the District Council. The Chairman of the District Council presides over the meetings of the Council.

Besides the five district councils, there is one Regional Council for the Pawi-Lakher Region in Mizo District. It is known as the Pawi-Lakher Regional Council.

Power and Functions : The District Councils are vested with wide powers—power to make laws with respect to the allotment, occupation and use of land, the management of unclassed

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lished. The leaders of all the tribes of the Nagas Hills representing the people decided to make an effort to put an end to the conflict. They called a representative convention of the Naga people drawn from every tribe and area of the territory then forming a part of the Naga Hills district of Assam and Tuensing Frontier Division. The convention passed a number of resolutions. The principal resolutions. requested the Government of India to constitute a single administrative unit consisting of the Naga Hills District of Assam and Tuensing Frontier Division of N.E.F.A. under the External Affairs Ministry of the Government of India, to be administered by the Governor of Assam as the Agent of the President. The Government considered the request as reasonable and embodied it in the Tuensing Area Act, 1957. Thus came into existence a single administive unit for the Nagas and it was administered by the Governor of Assam as the Agent of the President.

Another Convention was held atUngma in May 1958. This Convention appointed a laison committee to contact the underground hostiles and win them over. But it was not successful in its efforts. A third convention met at Mokokchung in October 1959 and prepared a sixteen point memorandum for the consideration of the Government of India. The main demand of this convention was the constitution of a separate state within the Indian Union to be known as Nagaland under the Ministry of External Affairs. A delegation of the Convention met the Prime Minister on July 20, 1960. The Prime Minister accepted the demand. Thus came into being the Naga State.

In the Khasi Hills, Garo Hills, Mizo Hills, Mikir Hills and North Cachar Hills, district councils were established. Each district council should consist of twenty-four members of whom not less than three-fourths were to be elected by adult franchise. The first elections to the different district councils were held in 1958.

State forests, the use of canals and water courses for agriculture, the regulation of jhumming, the establihsment of village and town committees, all matters pertaining to the civil administration of village and town police, the appointment and succession of Chiefs and Headmen, the inheritance of property and social customs, and the entire judicial administration of the autonomous Hill districts, excepting the trial of offences, punishable with death, transportation for life and such other offences arising out of laws specified by the Governor in that behalf. Suits and cases in which both the parties or one of the parties is not a tribal however, are not under the jurisdiction of the courts of the District Council. They must be taken to the court of the Deputy Commissioner and his Assistants as before.

The District Council is also competent to open and manage primary Schools, prescribe curriculum and the medium of instruction and also establish dispensaries, markets, cattle pounds, ferries, roads and waterways. The power to regulate money lending and trade by non-tribals within the district is also vested in the Council. Such wide powers are vested in the District Council with a view to assure the tribal people full freedom to regulate their way of life in accordance with their own concept of welfare and development.

The District Councils have also the power to levy and collect taxes on lands, houses, profession, trades, callings and employments, animals, vehicles, boats, on the entry of goods into a market, for the maintenance of schools, dispensaries and roads. It has also power to impose a toll on passengers and goods carried to ferries.

Besides taxation and tolls, the District Councils derive income from a share of the proceeds of the royalties and fees accruing from the licenses and leases granted by Government for prospecting and extraction of minerals in these areas.

The District Councils have power to make laws and regulations on certain specified subjects but they must receive the assent of the Governor of Assam. The Governor has power to suspend or annul any Act or Resolution of a District Council if he is satisfied that it is likely to endanger the safety of India.

How did the Sixth Schedule Work ? In the actual working of the Sixth Schedule many defects were discovered. *First*, the Schedule does not contain any provision for the coordina-

tion of the activities of the District Councils and that of the State Government. As a matter of fact the State Government is not in a position to review and assess the working of the District Councils. At present the only relationship between the Government of Assam and the various District Councils is the approval of their legislation by the Governor of Assam, sanctioning of loans and grants-in-aid to meet the normal costs of their administration or the expenditure for certain development works.

From the above it is clear that the District Councils are functioning more or less independently of the State Government and of the Union Government, "extremely jealous of their powers enjoined on them by the Constitution and at times suspicious of even the best intentions of the State Government. The States Reorganization Commission was surprised that the District Councils were not making use of the experience of the Deputy Commissioners in the administration of the district."

Second, there were deadlocks in the administration of certain district councils because the parties in the council were evenly balanced. At one time a District Council went to the extent of saying that all its members should resign because no party had a working majority. To meet such situations no specific provision has been made in the Schedule. The provision made in para 16 read with para 14 of the Schedule is cumbrous and dilatory becauses the cumulative effect of the various activities of a District Council have to be assessed and adjudged by the Commission appointed under para 14 of the Schedule.

Third, there is no provision in the Sixth Schedule for auditing the accounts of the District Councils by the Accountant General nor for the supervision, inspection and guidance of their office by the Commissioner of the Hills Division.

Fourth, under Article 172 of the Constitution, the form of the State Legislation Assembly has been fixed at five years. There is no such provision in the Sixth Schedule. The District Council on the otherhand is authorised to fix its own term by a simple majority. So a district council can fix any term say twenty years. This is absolutely an untenable situation.

Fifth, Para 6 of the Schedule authorises the District Council to prescribe the language and the manner in which primary

education shall be imparted in the primary schools under its control. But the Regional Councils have no such power. In an autonomous district there may be more than one tribe and this is the case in almost all the autonomous districts and the major tribes of the district are imposing their language on other tribes, which are in a minority. The minor tribes are dissatisfied with the existing provision in the Schedule.

Sixth, while the District Council has power to impose tax on professions, trades etc, the Regional Councils have no such power. The result is that the proceeds from such taxes even from the areas falling within the jurisdiction of the Regional Council are appropriated by the District Council. This is absolutely unfair.

Finally, under para 9 of the Sixth Schedule the Royalties accruing from licenses or leases for prospecting or extraction of minerals granted by the Government in respect of any area within the autonomous District are shared between the Government and the District Council on certain agreed ratio. The District Council's share is appropriated by it and the Regional Council has no share in it even though the area in respect of which licence was granted is within the autonomous region.

We have reviewed the development of local government institutions in the previous four chpaters. A century ago, there were no net work of local government institutions, excepting the lone Gauhati Municipal Board, the District Committees and certain voluntary associations for the improvement of sanitation. There was no adult franchise ; there was no elective system ; the local authorities were not democratic institutions ; powers and functions were not decentralised. They were completely dominated by district officers. It is no doubt true that there was deconcentration of authority in 1881 but not decentralization and in the next year the process of centralization began once again. At a time, when society was in a primitive condition, when education was not wide spread and as a consequence the number of educated and public spirited individuals were few in number, the control of local authorities by district officers was inevitable. But the continuance of official domination till the

twenties of the present century was due to various factors. The most important of it was the lack of public spirit in the people. They were generally lethargic and did not bring home their wants to the administration. As a consequence, the progress of local self-government was not as rapid as it ought to have been.

PART II CONSTITUTIONAL STRUCTURE

For forms of government let fools contest
Whate'er is best administered is best.
Alexander Pope
Essay on Man

CHAPTER VII

ADMINISTRATIVE AREAS

Local Government invariably means the government of a particular local unit. Is there any ideal size for such a unit ? Plato and Aristotle speculated on the ideal size of a city. Plato said that so long as the city could grow without abandoning its unity it might be allowed to grow but not beyond that. Evidently, Plato was conscious of the dangers of large cities. His ideal city would consist of 5040 citizens and not less and not more. To Aristotle, a State is large when there is no personal contact between citizen and citizen. These ideal considerations had very little effect upon the growth of cities in the Greeco-Roman world after Plato and Aristotle. Local communities have never been built upon the speculations of political philosophers and it is as idle to speculate today on the ideal size of a local authority as it was twenty four centuries ago. Furthermore, a size which was adequate one hundred years ago is inadequate in these days of automobile, airplane and telephone. What is adequate today may not be adequate for tomorrow. The flow of history, not the thoughts of philosophers determine the areas of the local authorities. The tendency in modern times is towards larger units. Small and inadequate local units have not the slightest chance of survival.

What are the principles that should be observed in determining the administrative area of local government units. We may note that there is no single principle that can be adopted or that has been adopted with any certainty of good results.

But there are certain principles that must be kept in mind while fixing the boundaries of the units. The first is the catchment area—an area that feeds some institutions. What is the catchment area for schools ? We must have different catchment areas for different schools. A secondary school must have a wider area than an elementary school because a secondary school must be big enough to employ an adequately qualified staff. So also for fire brigades. Many years ago, it was desirable that a fire brigade should serve a small area so that fire engines could get to the spot quickly where fire broke out. Today, the situation is different. A modern fire engine will reach a fire many miles away in less time than it would take an old type of fire brigade. Again, there are some natural areas for water supply. That is, water can come from a particular source and supply a particular area. Similarly, there is an area for the generation and supply of electrical energy. From the above it follows that the area differs from service to service and the units would be of widely different size with their boundaries cris crossing all over. Here is a problem—the problem of special areas for special purposes. In England, special authorities were brought into existence for several reasons. First, to meet special needs. For instance, roads were in a bad condition. People did not demand local self-government. They simply said that roads must be maintained in good condition. For this purpose they established turnpikes. Second, it was often easier to secure agreement for the administration of a particular project. Suppose a progressive village wants to have protected water supply. The inhabitants may come together and agree to meet the cost of the scheme. Third, if a general purposes authority is unsuitable for the provision of a particular service, a special authority may be established. For instance, the supply of electricity. A special authority is inevitable. Fourth, a special authority may be established so that the service concerned may not be influenced by party politics. Finally, the existence of numerous local authorities may result in the creation of special authorities. For instance, London has many local authorities. It would be hopelessly inconvenient to have several police forces and water supply boards. Hence, the emergence of the Metropolitan Police Force and the Metropolitan Water Board.

Is it desirable to have special authorities for each service?

Or is it desirable to have general purposes authorities? There are many reasons why we should have the latter. First, if the special authorities are popularly elected, there must be many elections. If elections are held at different times, they would be costly. If they take place at the same time, they are likely to create confusion. Second, the people may not know to whom they should go when they are in need of help. It is true that this may happen when there is a general purposes authority but the trouble can be minimised. Third, many services are inter-connected and their development must be co-ordinated and this can be done more effectively by a general purposes authority. Fourth, the amount of money available for expenditure on services is always limited. So priorities may have to be drawn up which is not possible if there are a number of special authorities. A general purposes authority, however, will be able to review the situation, consider the competing claims and come to a decision after a general review. It is thus clear that a general purposes authority is far superior to a special authority. It is admitted that there are still some special authorities both in England and in the United States, the school boards for example in the United States but their number is steadily diminishing. So the ultimate principle is that the cause of administration is best served if there is only one unit of local administration in a given area charged with all authority and responsibility for the conduct of local affairs.

If this contention is accepted, what are the factors that ought to be taken into account. *First*, the size of a local unit is directly connected with its functions. A panchayat may be capable of supplying protected water in an efficient and economical manner. On the other-hand it is too small for the inauguration of an effective public health programme. Public health administration requires a wider area to control communicable diseases, drainage, river pollution, milk inspection, prevention of adulteration of foods and drugs and other activities that require modern laboratory facilities and technically competent persons.

Second, the population to be served is of basic importance. If the residents within the unit are very few, they will not be able to supply adequately qualified persons to hold office.

Third, geographical adequacy is always an important factor

in determining the administrative area of local government institutions. It should take into consideration such factors as topography and distance.

Fourth, fiscal adequacy is of fundamental importance in determining the area of a unit. Local Government depends largely on property tax which means that a local unit must have sufficient taxbase in terms of real and personal property to produce the revenue required to run its government. Property values therefore provide a standard for judging the adequacy of an administrative area.

Finally, such factors as community of interest, development or anticipated development economic and industrial character of the locality, means of communications and accessibility to administrative centres and centres of business and social life, wishes of the people, local history and local tradition have to be taken into account. The weight to be given to the several factors will vary from case to case.

Municipal Boards : Let us now consider the administrative area of municipal boards. The town Improvements Act, 1850, authorised the Governor-in-Council to declare any area, any town, village, hamlet, bazaar or other area or any group thereof as a municipal area. This provision was repeated in the District Municipal Improvements Act, 1864, and in the District Towns Act, 1868. Under the Bengal Municipal Act, 1876, the Chief Commissioner could declare any town or village as a municipal area. However, before constituting any town into a municipality, the Chief Commissioner should see that certain conditions were satisfied. First, three-fourths of the adult male population of the area was not employed in agricultural pursuits. Second, it should have a population of at least three thousand and on the average one thousand inhabitants per square mile of the area. Third, a first class municipality should have at least 15,000 inhabitants per square mile. Finally, the Chief Commissioner might join any area in which three-fourths of the adult population was not chiefly employed in agriculture with any other town or village for the purpose of constituting a municipality provided of course there was territorial contiguity. Similar conditions were laid down by the Bengal Municipal Act, 1884. However, it did not classify municipal boards into first, second and third classes as the Bengal Municipal Act, 1876, did.

Besides the statutory conditions, other factors were taken into account, either for constituting a new municipal board or for the expansion of the area of the existing municipal authorities. The first is geographical contiguity and fiscal soundness.[1] Sometimes areas may be added to an existing municipal board in order to regularise an illegal practice[2], to improve the sanitary condition of a neighbouring area[3], to secure additional revenue[4] or for the introduction of certain Acts.[5]

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[1] Letter No. 1839'G of July 8, 1891 from the Commissioner of Assam Valley. In 1884, a proposal was made to exclude North Gauhati from the Gauhati Municipal area. But it was dropped. It was again made in 1891. The main reasons for the exclusion of North Gauhati from in 1891. The main reasons for the exclusion of North Gauhati from the Gauhati Municipal area was that the income and expenditure from North Gauhati were not equal. In 1890-91, the income from North Gauhati was Rs. 674 and the expenditure was Rs. 1,225. Further, Brahmaputra divided the two wings of the town. See also the letter No. 6663 G 7-8-1891 from the Chief Commissioner of Assam.

[2] Letter No. 269 of 19-9-1895 from the Deputy Commissioner, K & J Hills. Letter No. 216 of 9-1-1896 from the Chief Commissioner. La Chammiere was not a part of the Shillong Station in 1891. But the Assam Bengal Railway offices were located there and they were permitted by Col. Gray, the D. C. to take water from the Shillong Water supply system although they were not entitled to do so. The successor of Col. Gray Mr. Arbuthnot thought that the railway administration were not justified in taking water from the municipal water supply system without paying for that. Since Col. Gray had already permitted the company to take water, Arbuthnot found himself in a delicate situation. To get over it La Chammiere was included within the municipal limits of Shillong. At first, the Siem of Mylliium objected to the inclusion of the area within the municipal limits on the ground that it was close to the village of Malki and Laitumkrah. Later on he agreed.

[3] Letter No. 234 of 25-10-1905, D.C. K. & J. Hills. The village Haneng Umkhrah was included in the Shillong municipal area because the clerks transferred from East Bengal were residing there. The sanitary condition of the place was very unsatisfactory.

See also Letter No. 164-178 LSG A January 1917.

[4] L.S.G.-A. January 1917. There was a ferry near Dhubri. To appropriate the revenue from this source the boundaries of the Dhubri municipal board were extended.

[5] Home A. January 1908. In many cases the existing areas were extended for the introduction of the Vaccination Act.

The conditions laid down by the Bengal Municipal Act, 1884 were so rigid that municipal boards could not be constituted even at the sub-divisional headquarters station of some importance. Similar restrictions were not imposed by the Municipal Acts of other provinces. Government thought that it should have greater discretion in the matter.[6] So the Assam Municipal Acts 1923 and 1956 endowed the Government with wider discretion to declare any town or village as a municipal area subject to the condition that it did not include a military cantonment or part or parts of a military cantonments without the consent of the President. It should not also include any area within a municipality or exclude any area from it or abolish a municipal board without the recommendation of the municipal board concerned.

The precedure prescribed for the declaration of an area as a municipal area was as follows. Government had to publish a notification informing the public about its. intention to declare an area as a municipal area. Any inhabitant of the locality could submit his objection in writing through the Commissioner to Government within forty-two days from the date of publication of the notice. Government should consider the objections raised and issue a formal notification sixty days after the publication of the draft notification. The same procedure is adopted even today.

Stations : As regards stations, any town or suburb might be constituted into a station provided two-thirds of the inhabitants of the area petitioned to the Chief Commissioner, expressing a desire to make better provision for sanitation.

Unions : The Chief Commissioner could form any city, town, suburb, bazaar or any parts of the city into a Union under the Bengal Municipal Act, 1876. But no agricultural village should be included in the Union. The consent of the inhabitants of the place, as in the case of stations, was not necessary for the formation of Unions Their formation was determined by local conditions.[7]

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[6] No. 33-76 L.S.G.-A. January 1916.

[7] L.S.G.-A. July 1918. In 1918, the Deputy Commissioner, Goalpara suggested that Gauripur might be constituted into a Union but

The Municipal Act 1923, abolished stations and Unions and in their place small towns were brought into existence. Government may notify any area to be a small Town for municipal purposes.[8]

Local Boards : Prior to 1874, Assam was cluttered with a number of local authorities in the rural areas. There was the District Road Cess Committee under the Bengal Road Cess' Act, 1871, the Government Estates Improvement Committee in each district and so on. After the constitution of Assam into a Chief Commissioner's Province in 1874, some of the existing areas were abolished but the district continued to be the administrative area for the administration of the District Road Fund, the District Improvement Fund and the District School Fund, each fund being managed by a committee of its own, functioning independently of others.

The existence of different committees for different purposes in one and the same place created administrative difficulties. The Chief Commissioner thought that there should be a single administrative body for all purposes. But then, what should be its administrative area ? The Local Rates Regulation decided that it should be the district. That is, there should be a district committee in each district to look after local affairs. Besides the district committee, each sub-division should have a branch committee. With the establishment of these two committees, the existence of the district education committee, the district improvement committee and the charitable dispensaries committee

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the idea was, abandoned on financial grounds. Then it was proposed that a village authority might be established but the scheme prepared by the Gauripur Estate was beyond the scope of a village authority and therefore the proposal was abandoned. The Deputy Commissioner, Goalpara, directed the Dewan of Gauripur Estate to prepare a scheme for the constitution of a Union. But the Commissioner of Assam Valley laid down three conditions for the formation of the Gauripur Union, surrender by the local board, Goalpara, the entire income from the Gauripur pound and half of the income of the Matibagh ferry ; an annual contribution of Rs. 2,500 by the Raja of Gauripur and taxation of real property which would yield Rs. 2,000 per annum. See for full details letter No. 2882-F, 10-7-1917 from the Commissioner of Assam Valley.

[8] Section 328. Assam Municipal Act, 1923.

appeared to be superfluous to some. There were, however, others, who were in favour of their retention. They argued that these committees were in possession of other funds besides those raised under the Local Rates Regulations, 1879, and that the District Committee established under the above Regulation had no right to any voice in the disposal of these funds ; if the existing committees were absorbed into the district committee, the latter would become unwidely ; the existing committees had rendered good service and it would be unjust to supersede them by the District Committee.

But the Chief Commissioner said that apart from administrative difficulties that might be caused by the existence of different committees for different purposes in one and the same area the Local Rates Regulation laid down that the entire management and control of all funds must be vested in the District Committee. "The confusion and complication in the maintenance of accounts arising out of the existence of the several committees must itself be a sufficient reason for their abolition" said Bailey. Accordingly, all other committees were absorbed into the District Committee.[9]

The District Committee did not function satisfactorily for obvious reasons. Distances were so great and communications were so difficult that it was not possible for the meetings of the District Committee to be held frequently. When the meetings were held, the attendance was not even one-fifth of the total. The resident members of the headquarters town and of the neighbourhood dominated the committee. As a consequence it ceased to be a representative body. Although the district committee was a failure in many respects, the branch committee—functioned effectively. So the abolition of the District Committee as an executive body was suggested, their place to be taken by the subdivisional boards. In other words, there should be a board for every 3,90,000 inhabitants.[10] Although the abolition of the Dis-

[9] Assam Gazette—Supplement 21-6-1880.

[10] Letter No. 690 of 1-4-1882 from Luttman, D.C. Sylhet to the Chief Commissioner. Johnson was a very able and conscientious and constructive administrator whose opinions received respectful attention. Mr. Johnson wrote that the district committee was a farce and that it ceased to be a governing body. During the years 1880-1882, the Sylhet district committee met thrice. The total strength of the com-

trict Committee as an executive body was suggested its retention "as an engine for use in extraordinary occasions" was also recommended.[11]

Reforms of 1882 : Although the local boards were reorganised in May 1881, their administrative area was not touched. Shortly, thereafter, the famous Ripon Resolution on Local Self-Government was issued suggesting that the jurisdiction of the local boards should be so limited as to secure both local knowledge and local interest on the part of the members. A question therefore, arose as to what ought to be the administrative area of a local board ? There were two schools of thought. One suggested that each thana should have a local board and the other suggested that each sub-division should have a board.[12]

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mittee was seventy-five. The first meeting was attended by thirteen members the second by twenty-seven and the third by nineteen For the second meeting the D.C. issued a whip. Of the nineteen members that attended the third meeting nine were officials, six were residents of the Sylhet town and only four came from the interior and of the four two were planters. So Johnson argued that if the aim of the government was to develop local self-government in rural areas the district committee should be abolished because it was in no sense a local body and that the branch committee should be entrusted with real power. So Johnson suggested the formation of five local boards in the place of the Sylhet district committee.

Letter No. 318 or 6-5-1876 from the Secretary to Government of India, Revenue and Agricultural Department in which the district committees were condemned.

Letter No. 5559 of 16-11-1881 of the D.C. Sylhet in which Johnson complains that Sylhet with an area of 5000 square miles was too large for one committee. "I think time has come " wrote Johnson " for the abolition of the District Committee in favour of the present sub-division ".

Note by Mr. Mcpherson, Assistant Secretary to the Chief Commissioner Home-A July 1883 who expressed similar views.

[11] Letter No. 690 of 1-4-1882 from the D.C. Sylhet. Mr. Johnson wrote " I think a general committee composed of delegates from all the Local committees in the Surma Valley meeting say once in a year or two to discuss new measures might be a useful institution. For instance, if I propose to make any change in the land revenue system in the valley, the first thing that I should do would be to lay my scheme before such a general committee. "

[12] The D.C. of Nowgong and Kamrup suggested thana as the administrative area of the local boards. The D.C. of Lakhimpur suggested the sub-division.

Elliot agreed with the second on financial grounds. Thus came into existence the sub-divisional boards in the place of district committees. This is a unique provision. Of all the provinces in the country, Assam alone had no district boards. Instead it had sub-divisional boards. Each sub-division had a local board with the exception of Bishnath and Gohpur in the Darrang district, Majuli in the Sibsagar district and North Kamrup in the Kamrup district. Elliot, however, suggested that in addition to the sub-divisional boards, district boards might be established if the former so desired.

Cotton's Proposal : The administrative area of the local boards was no doubt satisfactory. The smallness of the area enabled the members of the local board to be well acquainted with the needs of the whole area under their management. The members evinced keen interest in the administration of the board. The attendance of mebers at the meteings of the board was not unsatisfactory ; deliberations were intelligent and the expenditure of monies was judicious. However, the smallness of the area had its own defects. It did not permit them to employ competent persons as engineers. The chairman had neither the time nor the training necessary to enable him to exercise any real supervision over public works. They were completely in the hands of poorly paid overseers. The absence of effective supervision provided them with opportunities for corruption. To remedy this state of affairs, Cotton suggested the reorganization of the administrative areas. That is, there should be a district committee in each district in addition to the sub-divisional boards. In other words, Cotton wanted to revive what Elliot had already abolished. Thus started the controversy once again as to what ought to be the administrative area of a local board.

The proposal of Cotton was opposed both by the district officers and non-officials. The latter smelt a rat in it. They thought that by the establishment of district committees Government was trying to undermine the independence of sub-divisional boards. They also feared that as it would be difficult for non-official members of the District Committee to attend its meetings regularly, it would be dominated by the official members. Cotton therefore was compelled to abandon the proposal. However, he suggested an alternative—a joint committee in each dis-

trict to appoint and control the district engineer. He hastened to assure that these joint committees would not be district boards in disguise and would have no power to control the sub-divisional boards. Even this innocent proposal was viewed with suspicion by the non-official members of the local boards and they would not touch it even with a large pole. In the meanwhile, there was partition of Bengal and all proposals for the reorganization of administrative areas had to be abandoned.

R. D. C. : The problem of administrative areas of the local boards was again discussed by the Royal Commission on Decentralization. The witnesses that appeared before the Commission from Assam were unanimously against the establishment of district boards.[13] When the Local Boards Acts, 1915 and 1953 were being passed there was not much discussion as regards the administrative areas of the local boards. It was taken for granted that the sub-division was the most suitable area for the purpose.

Mehta Committee : In 1918, the problem of administrative areas was reviewed by the Mehta Committee. The Committee said that the rural board ought not to be too large to defeat the purpose for which it was created nor too small to be uneconomical and inefficient. Obviously, the village panchayat was too small in area, population and financial resources to carry out the development functions. The districts were not suitable for this purpose because they were too large in population in local administration. Since the village and the district were not suitable for the purpose, the Mehta Committee recommended that each extension service bloc ought to have a samity because it is larger than the panchayat and smaller than the district. The area of each bloc might be approximately 150 to 175 square miles and it might contain 60 to 100 villages with a population of about 60,000 to 80,000.

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[13] Decentralization Commission Report. Vol. 15, p. 180. Evidence of P. R. T. Gurdon said " The great difficulty in the working of district boards in Assam is that it is so difficult for the members to meet. For many reasons we were in favour of district boards if this difficulty could be got over. "

Ibid. Evidence of P. C. Melitus.

The State Government accepted the recommendatoins of the Mehta Committee. So under the Assam Panchayat Act, 1959, a three layer organization was brought into existence, the Gaon Panchayat, the Anchalik Panchayat and the Mohkuma Parishad. The area of the Mohkuma Parishad is the sub-division. The area of the Anchalik Panchayat is coterminous with that of the Community Development Bloc. In case where there was community Development Bloc, its area shall be the area of the shadow bloc which would be converted into a community development bloc in the near future. In any case the area of an Anchalik Panchayat should not be spread over more than one sub-division. Thus came into being a new administrative area in rural Assam, the Anchalik Panchayat.

Is there need for two intermediate bodies between the primary unit and the State Government ? Critics point out that this experiment had already been tried and found to be a failure in States like Madras and Andhra prior to 1935. The Taluq Boards—equivalent to Anchalik Panchayats were found to be a drag on local finance. In Madras for instance, of the 208 taluq boards that existed in 1934, as many as 90 had deficit budgets for a number of years and several of them were not able to pay salaries to their establishment. So, they were abolished. Therefore critics say that for administrative convenience we may have only one intermediate body between the Gaon Panchayat and the State Government and that the intermediate body should not, for any reason, be the development bloc because its area is less than that of a taluq and its population is less than 60,000. If each development bloc is to have a panchayat, then there should be as many as 120 Anchalik Panchayats besides 16 Mohkuma Parishads and several thousands of Gaon Panchayats. The administrative expenditure on the Anchalik Panchayat would be enormous. A time may arrive, when for want of finance, they may even collapse. Further, we may not be able to find adequate number of men and women imbued with patriotic spirit to run these institutions. Above all, the development blocs are artificial units and may not survive.

The critics admit that some of the districts are too large and therefore too unwieldy for local self-government purposes and that they have existed for many decades and as a consequence a tradition of community feeling has come into existence.

If some of the existing districts are too large for local government purposes, they may be split up into two or three according to administrative convenience. If that is not possible we may adopt the sub-division as the administrative area. The sub-division was already an area for nearly a century and a community feeling and tradition already exist. There are 16 sub-divisions and each sub-division may have a local board. The number is reasonable. In support of their contention the critics quote what G.D.H. Cole said in this connection. Prof. Cole said that there is an unanswerable case for small local bodies because the prime object of local government is to create local communities and this is possible only in small areas. There is equally an unanswerable case for larger local bodies at a higher level because of the nature of the functions to be performed by them. There is no case at all for an intermediate body between the panchayat and the sub-divisional board. In other words, critics say that there is no need for Anchalik Panchayat.

These arguments are apparently but not really sound. The Madras example quoted by the critics is not appropriate. It was the child of Ripon Reforms and met with untimely death for financial reasons. There are valid reasons for the establishment of Anchalik Panchayats. *First*, there is a fundamental difference between the variety and nature of functions entrusted to the Madras Taluq Boards and the Anchalik Panchayats in Assam. The Anchalik Panchayat is called upon to interest itself in the remaking of man. That is it is entrusted with all the develop ment functions. If all the development functions are entrusted to the Mohkuma Parishad, there may be administrative breakdown. It is admitted that the administrative expenditure will be enormous. But the number of functions entrusted to the Anchalik Panchayat are comparatively greater than those entrusted to the local boards prior to Independence. As we had already noted, the administrative area of a local authority depends on the nature of the functions to be performed. Therefore a new administrative area is necessary between the gaon panchayat and the Mohkuma Parishad.

Second, a specific duty is cast on the State Government under Article 40 of the Constitution to develop village panchayats and endow them with necessary powers and functions. To give effect to this principle, it is necessary to bring into existence

Anchalik Panchayats in addition to gaon panchayats. Thus, Anchalik Panchayat is conceived primarily as a means for implementing Article 40 of the Constitution.

Third, the National Service Extension Bloc was considered as the most convenient unit for organising the Anchalik Panchayat. It would provide every Anchalik Panchayat as soon as it was formed with the services of a trained personnel working under the National Service and Extension Scheme.

Fourth, the National Extension Service Scheme has come to stay. The bloc development officer, the village level workers and different categories of extension officers had been recruited, trained and employed for that purpose. The Government declared that these officers would be available for service and that it would share a substantial portion of the cost of the esablishment on a continuing basis.

Fifth, any area substantially larger than the bloc would be unsuitable. The fact that the Anchalik Panchayat included a representative of every panchayat in its area implied a definite limitation on its area. If the area was larger than the bloc, the number of representatives of panchayats would be so large that any workable organization would not be possible.

Sixth, the Anchalik Panchayat formed at the bloc level would bring the local boards close to the village. As the total number of elected representatives of all the Anchalik Panchayats in the sub-division would be much larger than the number of members of a sub-divisional local board it was expected that local leadership would come up. At the same time those leaders would be more familiar with the needs and resources of the entire area in their charge. The Anchalik Panchayats were therefore more likely to be successful in raising local resources needed for local development schemes than the local boards.

Seventh, every member of the Anchalik Panchayat would be an authorised representative of one village panchayat or other. He would thus constitute a human link between the village panchayats and the Anchalik Panchayats. This result can be secured in respect of Anchalik Panchayats because the total number of panchayats within its area will not be larger. The Anchalik Panchayat and the village panchayat can work in mutual cooperation to an extent which it would be impossible to secure as between the local boards and the village panchayats.

Eighth, the National Extension Service Blocs were compact, efficient and strong administrative units carrying on development activities. The Anchalik Panchayats could in course of time take over some of the functions which the block was performing. Above all, there were many functions which could not, in their very nature, be entrusted to the village panchayats. Therefore, a large and an intermediate body like the Anchalik Panchayat, at the block level, was considered necessary.

It was also suggested that as the block area would be too small to be an administrative area of an Anchalik Panchayat, two blocks might be combined together to form an Anchalik Panchayat. The difficulties inherent in this suggestion were obvious. The most important point was that all the panchayats in the Union ought to be given individual representation on the Anchalik Panchayat. So a larger area than the block would not be feasible. The aim in abolishing the local boards was to have areas which would facilitate close coordination between the panchayat and the Anchalik Panchayat.

There was also another suggestion namely, that there might be an Anchalik Panchayat for each Assembly Constituency. The objection to this suggestion is that the boundary of the Assembly constituency is liable to change after every census and this will necessitate a corresponding change in the administrative area of the anchalik panchayat. Moreover, the area of the Assembly Constituency is itself too large and therefore open to the same objection as the double block unit or the thana unit.

The main idea in accepting the block as an administrative area of the Anchalik Panchayat was that it was compact, facilitating the participation of the people in the development work.

Panchayats : Under the Choukidari Panchayat Act, 1870, the District Magistrate could declare any local area to be a village for the purpose of the Act. This Act was introduced in every few villages. The Decentralization Commission did not discuss the problem of administrative areas although it recommended the establishment of Panchayats. Under the Local Self-Government Act, 1915, Government could declare any area to be a village for local government purposes. So the question arose as to what ought to be the administrative area of a village panchayat. The Department of Local Self-Government suggested that the cadas-

tral village should be the unit. The Commissioner of Assam Valley suggested Mouza to be the administrative area of a panchayat. The Chief Commissioner thought that it would be an ideal arrangement if each village had a panchayat of its own but the ideal, like all ideals, was impracticable because in Assam villages were very small. So he suggested that each panchayat ought to have an area not exceeding ten or twelve square miles[14] with a population not exceeding 5,000 persons or one thousand houses. But what ought to be the minimum population or the minimum number of houses was not stated.

Under the Assam Rural Self-Government Act, 1926, the Provincial government could establish village authorities in any district or parts of the district. Under the Assam Rural Panchayat Act, 1948, the Provincial Government had power to declare any area to be a rural panchayat. Each rural panchayat area might consist of as many primary panchayats as might be necessary but their number must not exceed four. Thus, the Act of 1948 brought into existence two administrative areas, primary panchayats and rural panchayats.

There was a great debate on the administrative areas of panchayats. The Central Council of Local Self-Government, Ministers' Conference said that a revenue village consisting of 1000 to 1500 persons should have a panchayat. The Congress Panchayat Committee made a similar recommendation. The Committee thought that local initiative could be developed only when every village had a panchayat of its own. In case there were small villages with a population of less than 3,000 to 4,000 they might be combined together but generally a revenue village should be the unit for local self-government purposes. The Second Local Self-Government Minister Conference, 1954, thought that though small panchayats consisting of less than 1,000 persons might provide opportunities to its inhabitants to take greater interest in the day to day affairs, for purposes of greater utility and administrative convenience, one panchayat should be constituted for all the villages in a 25 square mile area except where local conditions would not permit it. The constitution of a panchayat for such a group of villages would result in greater economy, in the pooling of resources and in the provi-

[14] L.S.G.A. May 1914, p. 120.

sion of many social services. The average population of each group might be about six to seven thousand.

But the Panchayat Committee of the Local Self-Government Ministers' Conference felt that since the object in setting up panchayats was to secure direct participation of every adult for assessing the felt needs of the village community, for determining priorities in relation to such needs and for the formulation and implementation of programmes to realise these needs, as well as to secure cheap and speedy justice and administration at the village level, the village presented itself as a normal homogeneous primary unit for the establishment of panchayats. However, the committee felt that each panchayat should contain at least 1000 to 1500 persons representing normally a single revenue village.

Another view was that the Panchayat should consist of more than one village. If we leave aside the larger semi-urban villages, the vast majority of our villages are too small and have too few resources and leadership. So a single village could not be a viable unit. Contiguous villages ought to be grouped together so that they would be able to support the essential local services and provide the neccessary leadership to make local government a reality. Each village must have at least 3000 to 4000 persons. Such panchayats might eliminate or at least mitigate factions and feuds which seem to be endemic in the rural areas.

Some of the State governments have adopted population as the basis of the administrative area of panchayats. In Bombay, Mysore and Andhra the maximum population of a panchayat is 2000, in Uttara Pradesh and Madhya Pradesh it is 1000 and in Madras 500. As a matter of administrative policy, however, the Madras Government is insisting that every panchayat should have at least 1000 persons, unless it is shown to the satisfaction of the Government that further reduction is unavoidable. Subject to this limit, the convenience and wishes of the local people are respected in delimiting panchayat villages. In Andhra it was 500 in the coastal and ceded Districts and 1000 but not more than 5000 in the Telingana area. In Assam, it was 2,500, Bihar 4,000 and Chota Nagpur 2,500.

From the above it is clear that it is not possible to indicate any figure as the ideal for a panchayat. The figure five to ten thousand may be suitable in Kerala where the density of

population is high. But it is quite unsuitable in a State like Assam as it would result in widening the administrative area of a panchayat. Again, it is not always necessary that the administrative area of a panchayat should be coterminous with that of a revenue village. Experience shows that where revenue village was adopted as the administrative area, scattered hamlets which constituted a revenue village tended to split up. So revenue village need not be adopted always as the administrative area except for ensuring the minimum population specified by the Act.

At any rate the area of a panchayat must be small in size. Where the panchayats are small, there would be intimate contact between the people and the administration. Meetings of all adults which is provided in the Act once in six months are possible only when the total population of the primary panchayat is relatively small. Such contacts at the primary level is vital for the effective functioning of democracy. At the same time one must anchor his boat near the shore lines of reality while considering the administrative area of panchayats. That is, administrative viability and efficiency demand that the unit should have a minimum population.

Finally each panchayat should be a homogeneous unit. A homogeneous village is a face to face community. The great merit of this community is that it affords opportunities for the development of such human traits as mutual confidence and desire to promote human happiness. All these qualities convert a group of individuals into a social organizm. Thus, a village consisting of families that knew one another and having a feeling of identity of interest is the natural primary unit. In such villages, sound village leadership can be developed. But if we combine villages which have different traditious for the purpose of village government, there will inevitably be as in the Madras and Andhra States, the disintegration of local government or the neglect of one or two villages.

How far these principles have been observed by the Government in the constitution of primary panchayats ? Under the Assam Panchayat Act, 1959, the State Government may notify any area to be the area of a gaonsabha. In practice, however, the area of the primary panchayat constituted under the Rural Panchayat Act, 1948, was adopted as the area of the

gaonsabha. At the same time, it must be said that the adoption of the areas of the primary panchayats was not automatic. Certain principles were insisted upon. The area may consist of one or more villages. But it must have a minimum population of at least 2,500 and its area must not be spread over more than one Anchalik Panchayat. Further, there should be physical contiguity and social homogeneously. The villages from two different mouzas should not be combined. Subhas should not be combined but two or more revenue villages may be combined for local government purposes.

The Assam Panchayat Act, 1959, permitted the constitution of more than one gaonsabha in areas where population is 5,000 and above provided a resolution favouring the establishment of more than one gaonsabha is passed by a two-thirds majority, at a meeting attended by half of the total number of members. Nij-Hajo has two gaonsabhas. Saulkuchi in the Hajo Anchalik Panchayat area has three gaonsabhas.

We may, however, observe that no uniform policy has been observed in determining the area of the gaon panchayat. Some of the gaon panchayats consist of three or four villages inhabited by heterogeneous communities and groups and as a consequence, there is inter-village conflict. It appears that local public opinion was not consulted before the formation of administrative areas. It is true that it is not possible to have gaonsabhas for each village because there are hundreds of villages with a population of 500 and less. Yet, if public opinion had been consulted in the formation of village panchayats, inter-village conflict could have been avoided.

CHAPTER VIII

THE CHAIRMANSHIP

Every local authority has a head. In some places, he is merely a titular head while in others he is endowed with plenitude of powers. He is variously designated, Mayor in big cities and chairman or president in other places. It must, however, be noted that the effectiveness of the office depends on the personality of its occupant.

Statutory Provision : Under the Municipal Acts of 1850, 1864 and 1868, the Deputy Commissioner was the ex-officio chairman of the municipal board. The .same provision was made in the Bengal Municipal Bill, 1870 and 1872. There were protests. Raja Jatindra Mohan Tagore expressed the view that as long as the Magistrate was the chairman of the municipal board, the other members would necessarily sink to the position of johukum members. The association of the official chairman with non-official members was something like yoking the elephant and the bullock to the same plough.[1] Henry Hopkinson, agreed with the above view. He said that a representative government must represent the genius and the will of the people. In other words, Hopkinson was in favour of a non-official chairman. He went further and said that neither the magistrate nor his representative should be present at the municipal meetings so that its deliberations might be absolutely free. He agreed that the municipal bodies must be controlled but that must be done from outside. To the argument that the non-official chairman might abuse his powers. Hopkinson pointed out the provisions in the Municipal Act which authorised the Deputy Commissioner to interfere effectively in the internal affairs of the board.

Under the Municipal Act, 1876, ordinarily the District Magistrate was the ex-officio chairman of the municipal boards within his jurisdiction. Provision was also made for the appointment of any other person to be the chairman. In other words,

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[1] Quoted in Letter No. 75 of 13-3-1872 from the Commissioner of Assam.

the Act contemplated the appointment of non-official chairman. It did not contemplate the election of chairman. But the vice-chairman had to be elected. Government had no power to appoint a vice-chairman under any circumstances. However, the person elected as vice-chairman had to be acceptable to it. The vice-chairman could be an official or non-official. He was paid a salary and held office for a term of years or during good behaviour. The Act did not prescribe the term of office of the vice-chairman. Although provision was made for the appointment of a non-official chairman and for the election of a non-official as vice-chairman, the fact remains that both the offices were filled invariably by officials.

In 1882, Ripon suggested that the chairman should wherever possible be a non-official. He wrote that " if the boards are to be of any use for the purpose of training the natives to manage their own affairs, they must not be over-shadowed by the constant presence of the burra sahib. They must be left alone gradually, more and more, though watched from without by the executive authority and checked when they run out of the right course."

The Government of Assam accepted the recommendation and advised all the municipal boards to elect one of its own members to be the chairman. It did not, however, prohibit the election of an official as chairman. In case an official was elected as chairman, the vice-chairman should be a non-official. The person elected by the board was formally appointed as chairman.

The Bengal Municipal Act, 1884, laid down that the commissioners of every municipality 'shall' at a meeting elect one of their number to be the chairman or request the Local Government to appoint a chairman, provided such a request was made at a meeting attended by not less than two-thirds of the commissioners. When such a request was made, Government could appoint any one, not necessarily an official. A non-official, nominated or elected could be appointed. Further, by making such a request, the board did not surrender permanently its inherent right to elect its own chairman.

Now let us consider the actual operation of this provision. Although the municipal boards were authorised to elect their own chairmen, for about three decades, the Deputy Commissioner

was appointed as chairman at the instance of the non-official members of the board. Let us take Tezpur. During the period 1894 to 1907, the chairman and the vice-chairman of the Tezpur Municipal Board were the Deputy Commissioner and the Extra Assistant Commissioner. It was in 1907 that a non-official Manmohan Lahiri was elected as vice-chairman. The board had several opportunities to elect a non-official as its chairman but the non-official members of the board requested the Government to appoint a chairman although the board consisted of men of ability and experience like Manmohan Lahiri and Padmanath Gohain Barua. During the period 1907 to 1916 the Deputy Commissioner continued to be the chairman of the board. It was on December 4, 1916, that a non-official Manmohan Lahiri was elected chairman. Even then one of the members of the board, Moulvi Muhammad Ali suggested that the Government might be requested to appoint a chairman.

Let us take Dibrugarh which was constituted into a municipality in 1873. The same state of affairs existed. In 1898, Radhanath Changkakoti a non-official was the vice-chairman but the chairman was the Deputy Commissioner. From 1878 to 1910 the chairman continued to be the Deputy Commissioner although there were experienced non-officials like Radhanath Changkakoti, Radhika Charan Maitra and Sibram Sarma for election as chairman. It may be noted that here again as in Tezpur, the non-official members of the board suggested the appoinment of the Deputy Commissioner as chairman. On November 10, 1910, however, Radhanath Changkakoti and Parasuram Khound suggested " that the Commissioners should elect one of their own number as chairman." At its next meeting however the board resolved unanimously to request the Local Government to appoint a chairman. Radhanath Changkakoti who at first initiated the proposal for a non-official chairman committed somersault by voting for an official chairman. Parasuram Khound was discreetly absent. Why did these two non-officials initiate a proposal for a non-official chairman and went back on it. The possible explanation may be as follows. First, Radhanath Changkakoti and Sibram Sarmah were political rivals. The former was repeatedly beaten by the latter in the contest for vice-chairmanship. Further, Sibram Sarmah was the favourite of the official bloc in the broad. How to dislodge

Sarmah was the thought uppermost in the mind of Radhanath Changkakoti. He might have thought that if chairmanship was thrown open to election Sarmah might not be elected. Or, Parasuram Khound who enjoyed the confidence of both the official and non-official members of the board migth hvae aspired the chairmanship. This does not appear to be true. For, when Bentick resigned the chairmanship on April 11, 1912, Parasuram Khound was unanimously elected as chairman but he resigned the office in the next month. The most plausible reason appears to be that the Deputy Commissioners themselves were jealous of the powers they possessed and therefore did not view the proposal of a non-official chairman with sympathy. There is definite evidence to prove this fact which we shall note later on.

We have already noted that on April 11, 1912, Parasuram Khound was elected chairman by a unanimous vote. Khound was the first non-official chairman of the Dibrugarh Municipal Board. But he tendered his resignation on May, 5, 1912, and on the 27th, the board reverted to its old practice of requesting Government to appoint a chairman even though it contained sufficiently experienced individuals to take up the chairmanship. It was on February 15, 1915, that Radhanath Changkakoti a non-official was elected as chairman. The Local Government did not like the election of a non-official as chairman of the municipal board and directed the board, to reconsider its decision. The board replied that by electing a non-official chairman it only exercised a long deferred and normal right conferred on them by statute. "They do not see any ground to reconsider the decision already arrived at as they have no reason to apprehend that their decision will be looked at with disfavour, by the local administration." From this it is evident that the civil service was against the election of a non-official as chairman.

In 1908, Jorhat was converted into a municipality and placed it under the control of an official chairman inspite of the fact that Jorhat was the intellectual centre and the seat of Ahom administration and though the board consisted of persons like Krishna Kumar Barua and Devi Charan Barua who had long experience in local govenment.

On March 10, 1909, the Shillong Station Committee resolved that it should be converted into a municipality under the Municipal Act, 1884. While forwarding the resolution to Government,

the Commissioner of the Surma Valley recommended that the chairman of the proposed municipal board should be an official as in Darjeeling. His argument was that Shillong being the headquarters of the Government, its sanitary condition must be kept " at a high standard of efficiency—a standard which I am afraid is very rarely maintained in the average municipality of the Province. Inefficient management and insanitary condition of the place would be intolerable at a place which is at once a health resort and the summar head quarters of the Government." Therefore, the Commissioner urged that every conceivable precaution should be taken to safeguard the authority of Government. He thought that the best means by which that could be done was by appointing an official as chairman. [2] Government agreed with the views of the Commissioner and appointed the Deputy Commissioner, K. & J. Hills as the chairman of the board. [3] The Municipal Commissioners went a step further and elected another official, the Civil Surgeon, as the vice-chairman. In 1910, the vice-chairman was a non-official in all places but not in Shillong. The enlightened citizens of Shillong simply accepted the decision of the Government without a single protest.

In 1916, there was an interesting incident in connection with the election of municipal chairman. In that year Government suggested that the Sibsagar Station Committee should be converted into a municipality under the Municipal Act, 1884, so that the water supply scheme might be introduced. The Government however, suggested that the chairman should be appointed by itself. [4] At the same time it assured the board that it would have an elected chairman as soon as the new Municipal Bill became an Act. In the meanwhile it would appoint " one of the informally elected commissioners as chairman unless there is any particular reason to the country." The Sibsagar Rate Payers Association under the presidency of Sibdev Goswami protested against the proposal and demanded that the municipal board should have the privilege of electing its own chairman. [5]

Although Government agreed to the election of chairman by

[2] L.S.G.A.—December 1910.

[3] Letter No. 6944 Municipal 6-9-1910.

[4] Letter No. 4137 Shillong 12-9-1916.

[5] Letter No. 4165 M. Shillong 8-11-1916.

the commissioners, the sub-divisional officer favoured the election of one Ramkumar Barua simply because he was the vice-chairman of the Station Committee. P. R. T. Gurdon, the Commissioner of Assam Valley turned down the proposal. "I do not agree" wrote Gurdon "as to the advisibility of appointing Ramkumar Barua whose only qualification appears to be that he has served as vice-chairman of the municipal board for a short period. I should think that either the Hon'ble Rai Sahib Phanidhar Chaliha or G. G. Phukan should be the chairman. It is important to secure a gentleman of experience and also of position at the initial stages of the introduction of municipal reforms in Sibsagar as chairman." Thus, the people of Sibsagar wrested from the unwilling hands of the British bureaucracy the right to elect their own chairman. [6]

While the proud civic spirit of the citizens of Sibsagar enabled them to secure the election of a non-official chairman, the absence of it induced the citizens of Golaghat to submit themselves meekly to the proposal of Government that the chairman of the newly constituted Municipal Board should be its nominee. The astonishing fact was that persons like Rai Bahadur Ghanasyam Barua who was a member of the board and who subsequently became a minister under Dyarchy and Gopika Ballav Goswami did not protest. [7]

Why did the Tezpur Municipal Board, repeatedly request the Government for the appointment of a cahirman even though there were experienced non-official members in it. The reason may be as follows. In the latter part of the 19th century and the first part of the present century, the Bengali community was predominant. It was natural that a representative of that community should aspire the chairmanship. The Assamese were in a minority. They did not like that a Bengali should be the chairman. The leader of the Bengali group was Manmohan Lahiri and that of the Assamese Padmanath Gohain Barua. Both of them were ambitious persons and jealous of each other. Both of them thought that they would be able to realise their political ambitions only by enlisting the sympathy and support

[6] Letter No. 764 F. 6-11-1916.

[7] Letter No. 189 G. 1-5-1920.

of the Deputy Commissioner. If only the Assamese-Bengali feud had not been there and if both Manmohan Lahiri and Padmanath Gohain Barua had made a joint effort for the election of a non-official as chairman they would have had a non-official elected chairman, as in Sibsagar. Hemchandra Das, however, denies the existence of such a feud and asserts that the contest between Lahiri and Gohain Barua was purely personal. A perusal of the minutes of the meetings of the Tezpur Municipal Board and the interviews which the present writer conducted on the spot do not support the contention of Hemchandra Das. In 1935, for instance, the Director of Public Instruction suggested the opening of a school with Bengali as medium of instruction. One of the members of the board A. K. Padmapathi opposed the proposal on the ground that the opening of lower primary schools for Bengali boys would induce other communities to demand the establishment of lower primary schools where the medium of instruction would be their own language. So Padmapathi asserted that the municipal boards should concern themselves with the opening of elementary schools with Assamese as the medium of instruction. The Begali members who were in a majority naturally rejected the proposal. Apart from this documentary evidence, oral evidence also supports the above contention. Kamala Prasad Agarwala, Dulal Chandra Bhattacharjee and Chandranath Sarma say that the Begali-Assamese feeling did exist.

Let us take Gauhati. As early as 1888, the Gauhati Municipal Board was permitted by Government to elect one of its non-official members as its chairman. But it elected the Deputy Commissioner, Kamrup, as its chairman. It went a step further and elected another official, the Civil Surgeon as its vice-chairman. Since 1888, the board had several opportunities to elect one of its non-official members to be the chairman. Though it consisted of experienced non-official members like Bhuban Ram Das, Manik Chandra Barua and Mahendra Mohan Lahiri, the board requested the Government to appoint a chairman " there being none amongst the commissioners available for the post." Such a request was made not once but several times. Not only that, on one occasion, Manik Chandra Barua went to the extent of advising the Commissioner of Assam Valley that Bentick, the Deputy Commissioner, Kamrup, should continue to be the

chairman of the Local Board, Kamrup. It was on March 24, 1913, that a non-official was elected as chairman, and the first non-official chairman was Manik Chandra Barua. So the question arises why the non-official members like Mohendra Mohan Lahiri, Bhuban Ram Das and Manik Chandra Barua requested the Government to appoint a chairman ? The possible reasons might have been as follows. The last two persons appear to be strong personalities and might have been jealous of one another. Either of them might have desired that the other should not be allowed to become prominent in local politics. Each might have tried to thwart the ambitions of the other and the easiest method by which this could be accomplished was to have the Deputy Commissioner as chairman.

The octogenarian poet Raghunath Choudhury does not subscribe to this view. He asserts that both Bhuban Ram Das and Manik Chandra Barua were good friends. As a matter of a fact, Bhuban Ram Das would not do anything without consulting Manik Chandra Barua. This fact was confirmed by the renowed indologist, Bani Kanta Kakati. We may accept this view.

The second possible explanation is that both of them entertained political ambitions which, in those days could not be realised without the support of the Deputy Commissioner who was generally British and wielded powerful influence with Government. This psychalogical factor might have had an oppressive influence over them.

The third explanation is that the Deputy Commissioners themselves, some of them at any rate, were not willing to part with power and therefore gently persuaded pliable non-officials to request the appointment of a chairman. This was true to some extent.

It was also said that the Bengali-Assamese feud was responsible for this state of affairs. Both Bhuban Ram Das and Manik Chandra Barua did not like that a Bengali Mohendra Mohan Lahiri should become the chairman of the board. Raghunath Choudhury does not accept this view. He considers that the Assamese-Bengali feud is a recent one and that it did not exist in the youthful years of the present century. It cannot be said that the feud did not exist. It is as old as the annexation of Assam by the British. At the same time it must be said that it

does not seem to have exercised a powerful influence. In 1913, for instance, Mohendra Mohan Lahiri supported the candidacy of Manik Chandra Barua for the chairmanship of the board. Again, when Bholanath Das contested for the vice-chairmanship, Kalicharan Sen and Suresh Chandra Banerjee supported his candidacy. Again, in 1917, there were two candidates for chairmanship, Nabinchandra Bardoloi and Lahiri. Bardoloi's name was sponsored by Suresh Chandra Banerjee. There are several other instances to show that some Bengalis supported an Assamese and vice-versa. So we may come to the conclusion that the Assamese-Bengali feud did not play a vital role in Municipal politics.

Apart from all these reasons, there is another reason—a psychological reason. Manik Chandra Barua was a contractor and supplied sleepers to the Railway Department. Bhubanram Das was an employee of a shipping concern owned by Europeans. Lahiri was a pleader. Traders, pleaders and ministerial servants could not be expected to possess an independent outlook. At all times their outlook was determined by their professional interests.

In 1914, the Decentralization Commission recommended the election of non-officials as chairmen of municipal boards. In support of its recommendation the Commission advanced several reasons; that the municipal boards were much less connected with the general district administration than the rural boards; that political education had reached a high level in municipal areas; and that the jurisdiction of the municipal boards was compact.

The Government of Assam refuted each one of the arguments. They contended that municipal boards in Assam were intimately connected with district administration; that political education in Assam was in its infancy; that the municipal committee room was hardly a suitable nursery for local government unless there was an experienced nurse in charge of it; that the municipal boards were very small depending largely on Government contribution and therefore, the Chief Commissioner should have the power to appoint a chairman who might be either an official or a non-official. Under certain circumstances a board might be permitted by Government to elect its own chairman. To the argument that statutory provision might be made for

official interference, Government pointed out that such interference might be resented by the boards.[8]

Thus the recommendations of the Decentralization Commission had no effect on Government.

In 1918, the Government of India, in its Resolution on Local Self-Government suggested that the chairman of the municipal board should be an elected non-official. The Chief Commissioner suggested that the Municipal Boards of Goalpara Habiganj, Karimganj, Sunamganj might be permitted to elected non-officials as their chairmen. Reid, the Commissioner of Assam Valley agreed with the suggestion and these boards elected their own chairmen. But Shillong was left out.[9] So in 1918-19, thirteen of the twenty-three municipal and Union Boards had non-official elected chairman, two had nominated non-officials and the rest had official chairmen It may be said that all boards other than Shillong had a non-official elected chairman, Goalpara an elected official and Shillong a nominated official as chairman.

In 1920, Government considered the case of Shillong but did not revise its previous decision. Though the members were elected, the chairman continued to be an official, appointed by Government. Not only the chairman was an official, some times an official was foisted by backdoor methods on the board as vice-chairman.[10]

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[8] L.S.G.A.—1919.

[9] Annual Municipal Report—1918-1920.

[10] L.S.G.-A November 1920. Here is an interesting incident in regard to the election of vice-chairman of the Shillong municipal board. A meeting of the Shillong Municipal Board was held on August 2, 1920 to elect the vice-chairman. F. M. Clifford, the officiating Deputy Commissioner presided. Clifford enquired from the commissioners whether they would like to have a non-official or an official as vice-chairman. Without waiting for a moment to know the wishes of the commissioners, he proposed that the senior Assistant Commissioner, (himself) might be elected as vice-chairman. The proposal was seconded by another. It appears that Clifford came to the meeting with a prepared plan. The voting was seven to six for a non-official vice-chairman. Clifford did not exercise his franchise at first. So he gave his vote in favour of an official vice-chairman and thereby brought about equility in voting. Clifford as chairman of the meeting had a casting vote in case of equality of votes. He gave that vote also in favour of an official vice-chairman. Thus an official was faisted on the Shillong municipality against the wishes of the elected

Various reasons were given for not permitting the Shillong Municipal Board to elect its own chairman. It was said that it included the territories of the Siem of Mylliim; since it was the headquarters of the State and a health resort the standard of sanitary administration must be high which would not be possible if the chairman happened to be a non-official.[11] All these reasons are unconvincing. The sanitary administration of Shillong, the collection of revenue and the general efficiency of administration touched the rock bottom of inefficiency even with an official as chairman. The real reason appears to be the unwillingness on the part of Government to part with power.[12]

In 1923, a new Municipal Act was passed. While it permitted all the municipal boards to elect one of their own number to be their chairman, the Shillong Municipal Board alone was denied of this privilege. The Act also provided that in case a municipal board was not willing to elect one of its own members as its chairman, it might request Government to appoint a non-official. But the vice-chairman had to be elected by the board. In 1924, the chairmen of all the Municipal Boards were elected non-officials except those of Shillong and Golaghat,[13] where they were nominated officials. The chairman of the Silchar Municipal Board was an elected official. In 1929-30, two municipal boards, Shillong and Dibrugarh and two Unions, Hailakandi and North Lakhimpur had nominated official chairmen.

The provisions relating to chairman in the Municipal Act, 1923 were defective in several respect. So the Act was amended in 1931 and 1932. Under the original Act, Government had no power to appoint a chairman in casual vacancies occurring as a result of resignation, removal death or absence on leave. As a consequence, some administrative difficulty was experienced. . So the Municipal (Amendment) Act, 1931, provided that the Government might nominate a chairman for the remainder of the

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commissioners of the board. There were protests. Later on Clifford himself regretted his action and suggested to Government a re-election of the vice-chairman but it did not agree and thereby perpetuated the injustice done to the Shillong Municipal Board by one of its own officials.

[11] A.L.C.P. Vol. XI p. 825.

[12] Annual Report-Municipal 1924-25.

[13] Ibid. 1929-30 p. 1.

term of his predecessor.[14] Next year, the Act was again amended because Government thought that this power might usefully be vested in the Commissioner as he would be in a position to understand the local situation better than the Government at Shillong. There was also another reason for this amendment. Perhaps the Government desired to free itself from the political pressure to which it would be subjected if it possessed this power. Thus, the Municipal Act, 1932, authorised the Commissioner to appoint a chairman in a casual vacancy until a new chairman was elected or appointed provided there was reason to believe that the delay in the election or appointment of a successor would cause administrative inconvenience.

In 1956, the Municipal Act was again revised. Under the Act, the Chairman of the Shillong and Tinsukia Municipal Boards were appointed by Government. All other boards had one of their own number as chairman and another as vice-chairman. In 1964 even the municipal boards, Shillong and Tinsukia, were permitted to elect their own chairmen. Government servants who are supernumerary members cannot aspire the chairmanship. If a board fails to elect a chairman or vice-chairman, Government appoints one of the members of the board to be the chairman or vice-chairman as the case may be. Ordinarily, he will be anon official. Under extra-ordinary circumstances an official may be appointed Finally, whenever the office of chairman or vice-chairman is vacant, the State Government may appoint one of the members to the office and he may hold it until his successor is elected.

From the above it is clear that for one hundred and ten years, since the formation of the Gauhati Municipal Board, one board or another had an official chairman. When the Municipal Bill, 1956, was under discussion, some of the members of the Legislature suggested that the chairman of municipal board should invariably be elected. The Legislature did not accept the proposal.[15]

Local Boards : Under the Local Rates Regulations, 1879, the Deputy Commissioner was the chairman of the district com-

[14] Section 81A Act 4 1931.

[15] Assam Gazette 1950. Part V p. 202. Report of the Select Committee. Ananda Chandra Bezbarua, Kamala Prasad Agarwala and Ranendra Mohan Das were against the nomination of chairman.

mittee and the senior extra-Assistant Commissioner at the Headquarters was the vice-chairman. The Sub-Divisional Officer was the chairman of the Branch Committee and the vice-chairman was appointed by the Chief Commissioner.

Ripon Reforms : In 1882, Ripon urged that the chairman of the local board should be an elected non-official.[16] Elliot was wholly in agreement with Ripon. He said that the Deputy Commissioner should never be a member of the Healquarters and the Sub-Divisional Officer of the Sub-Divisional boards. If official assistance was absolutely necessary for the purpose of conducting the administrative work of the board, an Indian Extra Assistant Commissioner might be attached to the board and the members of the board might elect him chairman. Elliot, proposal was opposed by the Deputy Commissioners of Kamrup, Darrang, Sibsagar and Goalpara and the Commissioner of Assam Valley. They were emphatically of opinion that the participation of the Deputy Commissioner in the administration of the board was indispensable. Ward the Commissioner of Assam Valley wrote, "It is essential to think for some time to come that the Deputy Commissioner should be the chairman of the district board and the sub-divisional officer of the sub-divisional board. But they need not have a vote; it would be sufficient if they guide without necessarily influencing the deliberations of the board and recorded the resolutions arrived at. The transaction of business and the carrying out of all resolutions must necessarily rest with the Deputy Commissioner or the sub-divisional officer as the chairman of the respective boards. The proposal to have a non-official chairman in any district is one which I cannot recommend for the present though we may possibly be able to see our way to this hereafter. Indeed I think we may accept it as a fact that no native even European would accept the post if offered to him except under a mistaken

[16] Lord Ripon : Ripon wrote "There appears to the Governor-general in council to be a great force in the argument that so long as the Chief Executive Officer is the chairman of the District Committee, there is little chance of these committees affording an effective training to their members in the management of local affairs or non-official members taking any real interest in local business. Non-official members must be lead to feel that real power is placed in their hands and that they have a real responsibility to discharge."

apprehension of the duties which would be required of him. The appointment of a non-official vice-chairman selected from the most intelligent of the members who would transact a good deal of business under the supervision of the chairman and would thus go through a course of training which might hereafter make him fit for election to the office of chairman is I think desirable."

Elliot who at first advocated a non-official chairman for the local boards revised his opinion and followed the advice tendered by his subordinates. He argued that the Deputy Commissioner should be the chairman of the local board on the ground that the European members of the board in the tea districts "by their greater force of character and stronger interest in the objects of expenditure would be likely, in the absence of some official arbitrator to overbear the native element.....The presence of the district officer or the sub-divisional officer, therefore, is not so likely as it perhaps is elsewhere to stifle discussion and check the free expression of opinion." Therefore, as a temporary measure, Elliot permitted the appointment of an official as the chairman, provided local officials were convinced that it was absolutely necessary. He, however, suggested that the official chairman should not exercise his right to vote except the casting vote; he also suggested that where the chairman was an official, the vice-chairman should be a non-official so that he might receive the necessary training to become chairman.

In 1899, Cotton suggested that the chairman of the local board might be an official or non-official. He might be appointed by the Chief Commissioner or elected by the members of the board from among their own number. But the vice-chairman should be elected by the members of the board. These proposals met with a premature death.

R.D.C. In 1912, the Decentralization Commission recommended the continuance of the existing arrangement. The reasons advanced by the Commission are several. First, the removal of the Deputy Commissioner from chairmanship would be to dissociate him from the general interest of the district, and would convert him into a mere tax gatherer and repressor of crime. Second, such a change would result in divorcing the district officer from a healthy contact with instructed non-official opinion, Third, as the local boards would be entrusted with a greater amount of freedom, it was desirable that the chairman should be

an official. Above all, the chairman must have a comprehensive knowledge of the needs of the various parts of the district so that expenditure might be effective.

A Great Debate : There was a great debate on this issue. The participants being the district officials, the European members of the Legislative Council and a few non-official Indians on the one side and non-official members on the other. The first school argued that the Deputy Commissioner must, for many years, be the chairman because a non-official chairman would not be able to devote the time required for carrying on the duties of a chairman. Further, the decision of Government to constitute village authorities rendered it imperative to retain the Deputy Commissioner as chairman because the village authorities would have dual functions, municipal and administrative. For the purpose of the latter they had to be under the control of the Deputy Commissioner and for the purpose of the former they had to be under the control of the local boards. If the system of 'dual control was to work at all, it was essential that the power of the board should be exercised by the Deputy Commissioner.

The Chief Commissioner while agreeing with the above view also suggested that a non-offilial might be appointed as chairman provided the Deputy Commissioner was appointed as the executive officer. But his Secretary opposed the proposal on the ground that "such a solution would really satisfy those who are set on the control (of the local boards) by non-official chairmen. Their object is to get rid of the control of the Government and of the Deputy Commissioner. The removal of the Deputy Commissioner may have the effect of weakening his position in the district."

"I have yet to come across a single individual who could do the necessary work as efficiently as the district officer" said a member of the Legislative Council, opposing the proposal for a non-official chairman.[17] "A non-official chairman" said a third, "with his own avocations may not move out but an official chairman moves about constantly and therefore, is in a better position to know the needs of the localities."[18] The argument that muni-

[17] Letter No. 1874 G. 2-11-1982.
I.S.G.-A-December 1913 p. 75.
A.L.C.P. 13-3-1915.

[18] A.L.C.P. Speech of Mr. Hawkins and of Mr. Playfair.

cipal boards had the privilege of electing their own chairmen was not tenable because the area of the municipality was very limited and there was no need for the chairman to move about" said a fourth. Further, the Deputy Commissioner would be in constant contact with the municipal boards and thereby prevent the abuse of powers.[19] "There is no real demand for a non-official chairman of the local boards in Assam" said another. "A few people mention it now and then for the most part, I think, because they are under the impression, it shows enlightenment to do so, more than because they have any real dissatisfaction."[20]

A vast majority of the non officials opposed the recommendation of the Commission that the Deputy Commissioner should be the chairman of the local boards. "There were frequent accusations that the Deputy Commissioner almost always favoured the planter members of the local board" said one.[21] "There can be no local self-government, if the people were not trusted to manage their affairs," said a second.[22] "The Municipal boards have not abused this power and the local boards would not abuse it and therefore they also should have the right to elect their chairmen," said a third.[23] The argument that the Deputy Commissioner would not be in touch with the instructed non-official opinion was not valid. He would be kept informed of what had happened in the board. The most important matters connected with the administration of the board would pass through him. Above all, a copy of the proceedings of the board would be forwarded to him and he would have an opportunity to advise the board, said a fourth.[24] The same person advanced another argument why the Deputy Commissioner should not be the chairman of a local board. The Deputy Commissioner was always in the habit of over-ruling rather than guiding the boards in most cases. Further, as long as the Deputy Commissioner happened to be the chairman of a local board,, people would

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[19] Ibid. Speech of Mr. Abdul Mazid.

[20] Ibid. Speech of Mr. Kennedy.

[21] L.S.G.A.-A December 1913, Note by W. W. Kennedy p. 3-4.

[22] A.L.C.P. 10-2-1913; see also Speech of Kamini Kumar Chanda, L.S.G.A. December 1913. Note by Ghanasyam Barua.

[23] Ibid. Note by B. C. Dutta.

[24] A.L.C.P. 10-3-1913. Speech of Phukan.

have no opportunity to learn the art of ruling. "If one wants to swim one must get into water." But the most important point was that unlike the local boards in other provinces, in Assam, many boards were dominated by tea planters who were Europeans. They had easy access to the Head of the Province and to the Secretaries to Government. So a Deputy Commissioner, particularly the Indian one, did not like to risk his career by initiating proposals which would offend the interests of the planters. Again, most of the Indian non-official members of the local boards were traders, lawyers and businessmen depending on the favours of the Deputy Commissioner and therefore, were not able to express their views freely and fearlessly in his presence. Above all an official chairman was not able to devote much attention to the affairs of the boards and would not be able to come in contact with the people as much as a non-official chairman.[25]

Act of 1915 : This great debate seems to have influenced the Government. The Local Self-Government Bill, 1915, contemplated that the chairman of the local board should be an official. But the Local Boards Act, 1915, provided that the chairman might be an official or non-official, appointed by the Chief Commissioner. Or he might be elected by the members of the Board with the permission of the Chief Commissioner. But the Vice-Chairman had to be a non-official elected by the board. If the board failed to elect the vice-chairman within the prescribed period he was to be appointed by Government.[26]

Earle's Proposal : In 1915, Earle thought that in some ways the local boards at the headquarters of the divisions, Gauhati and Silchar, would be the most suitable for experimenting with a non-official chairman because they would be under the immediate supervision of the Deputy Commissioner and of the Commissioner. At these centres, there wauld be no dearth of suitable men to take up the leadership. So Earle suggested that the chairman of the local boards of Gauhati and Silchar might be elected.[27] W. J. Reid, the Commissioner of the Surma Valley accepted the proposal and selected Silchar for the experiment.

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[25] Ibid. Speech of Mr. Muhammad Saadulla.
Ibid. Speech of Mr. Kamini Kumar Chanda.

[26] L.S.G.-A. June 1915. Letter from Babu Nagendranath Dutta.

[27] Letter No. 1330M. 18-3-1915.

Reid went to the extent of suggesting that the Deputy Commissioner should not be the member of the board after the election of a non-official as its chairman.[28] A similar opinion was expressed by the Deputy Commissioner, Sylhet.[29] But the Commissioner of Assam Valley opposed the proposal.[30]

Opposition to : Curiously enough, the Dhubri local board with a majority of non-official members opposed the proposal.[31] The Department itself was opposed to the proposal on various grounds, viz., that the areas were immense and that the administrative machinery of the local boards was not adequate; that an official chairman commanded the confidence of all; that the representatives of the Planters Community was opposed to the proposal; that the general standard of education was lower in Assam than in other provinces; and that no rural boards had tried the experiment in any part of the country. All these arguments were stock arguments. It is ridiculous to say that competent men were not available. They were available but the bureaucracy was opposed to the sharing of power with them. The Department, however, suggested that if the Chief Commissioner decided on the experiment being tried, it might be done in Silchar in the Surma Valley and Dibrugarh in the Assam Valley.[32] But the proposal was dropped.[33]

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[28] Letter No. 4329 of 7-6-1915.

[29] Letter No. 4890 J. Sylhet 14-5-1915.

[30] Letter No. 586 F. 5-6-1915. Mr. P. R. T. Gurdon wrote "Looking down the list of Indian non-official members of the Gauhati local board, it is impossible to resist the impression that the Chief Commissioner's choice as regards a chairman will be very much limited . . . I am of opinion, therefore that much as I would wish to give effect to the Chief Commissioner's wishes, as to the appointment of a non-official chairman at Gauhati, I do not think that the Gauhati Local Board is either ready or are the circumstances opportune for the introduction of such an experiment.

Lastly, I may mention that the Hon'ble Manik Chandra Barua in course of conversation with me at Gauhati on the subject said that he would much rather Mr. Bentick (the D.C.) remain as chairman of the local board, Gauhati. Local opinion may be stated not in favour of the appointment of a non-official chairman of any local board in this Division.

[31] Ibid.

[32] Letter No. 3230-M. 13-7-1915.

[33] L.S.G.-A July 1915.

The continuance of the Deputy Commissioner as the chairman of the local boards produced disastrous consequences. There was frequent change in the chairmanship of the local boards. Many of them were inexperienced, several of them felt that they were everything and that the people were nothing. So they gave the people what they thought best.[34] Many of them were guided by the ill-paid and corrupt managers of the office. By 1920, the situation was so unsatisfactory that a resolution was tabled by one of the members of the Legislative Council urging that the local boards should be permitted to elect one of their members as chairman.[35] By this date, the opposition to a non-official chairman had begun to crumble down and the Provincial Government authorised the local boards of North Sylhet, Sunamganj, Dhubri, Goalpara and Barpeta to elect one of their members to be the chairman. But the local boards of Gauhati, Tezpur, Nowgong, Jorhat and Dibrugarh were presided over by the Deputy Commissioners, Hailakandi, Karimganj, South Sylhet, Habiganj, Mangaldoi, Sibsagar, Golaghat and North Lakhimpur by the Sub-Divisional Officers.[36] In 1921, the Provincial Government informed all the local boards that they were at liberty to elect a non-official as chairman with the previous permission of the Government.[37] This decision had an immediate effect and the number of boards with non-official elected chairmen increased to thirteen in 1924-25. But the curious fact was that although the boards were permitted to elect their own chairman, the elected members of the Golaghat and the Hailakandi local boards requested the

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[34] No. 2-28. L.S.G.-A May 1921. Note by Tara Prasad Chaliha, Mr. Chaliha gives an interesting incident of a Deputy Commissioner of the kind. The ex-officio chairman of the Sibsagar Local Board was a man of remarkable ability. He had a thorough knowledge of the Surma Valley where there were plenty of facilities for water transport. Therefore villages in that Valley required foot paths. In the Brahmaputra Valley water transport facilities were meagre and therefore, villagers wanted cart roads. The ex-officio chairman who had no knowledge of the Brahmaputra Valley thought that foot paths would be sufficient there also. So the controversy went between the non-official members and the chairman.

[35] A.L.C.P. Vol. I. p. 547 Resolution of Dalim Chandra Barua.

[36] A. R.—Local Boards, 1919-1920, p. 1.

[37] A. R.—Local Boards, 1919-1920, p. 1.

Government to appoint a chairman. A similar request was made by the Nowgong Local Board.[38]

In 1926, these extra-constitutional provisions were incorporated in the Act by an amendment. The Local Boards (Amendment) Act, 1926, provided that the chairman of a local board should ordinarily be a non-official, elected by the members from amongst their own number. But a board, at a meeting attended by not less than two-thirds of the total strength might request the Government to appoint a chairman. Further Government retained the power to nominate a chairman if a board failed to elect one within the stipulated period or in the case of boards which were constituted after suspension. The result of this amendment was that in 1927-28, fourteen of the nineteen boards had an elected non-official chairman.[39] In 1935-36, it was seventeen, Tezpur and North Lakhimpur alone having an official chairman. Thus, three-score and ten years were required to democratise the chairmanship of the local boards.

In 1953, the Local Self-Government Act, 1915, was repealed and a new Act was brought into force. But there was no change in the position of chairman. Even after India became a sovereign democratic republic, the State Government retained the power to nominate a chairman under the extra-ordinary circumstances noted above. In practice, however, the chairmen of all the local boards were elected.

Now the question is why such a long time was taken for the democratization of the chairmanship ? It is admitted that in the second half of the nineteenth century, the Province was backward, almost in every respect and the number of public spirited and enlightened citizens, willing to take up the responsibility of managing public offices was extremely limited. This was not true in the first half of the present century. Enough men were available and the municipal boards were presided over by non-officials. There was no justification for keeping the local boards under the control of the Deputy Commissioners.

Further, the area of the Local Boards in Assam was not immense as in other provinces. In other provinces, the district was the administrative area of a local board but in Assam it

[38] A.L.C.P. Vol. I. 554, Speech of the Hon'ble Ghanasyam Barua.

[39] A. R.—Local Boards, 1924-25. p. 1.

was a sub-division. The arguments that if a non-official was appointed chairman an official had to be appointed to carry on the executive functions and that the financial condition of the boards did not permit the employment of an executive officer were unconvincing. For, after all, it must be remembered that local boards have been brought into being for the political education of the people.

Nor was the argument that an official president was required to develop the village authorities convincing because most of the district officers had no belief in village authorities. As regards the impartiality of the chairman, the less said the better. An official chairman almost always adopted a partisan attitude whenever there was conflict between the Indian and the Planter members of the board. As regards the argument that there would be conflict between the two wings of the board, planters and non-planters if the office of president was thrown open to election, the fact was the conflict was already there even when the chairman was an official.

Another argument was that the elected chairman would represent only one section of the board whereas the official chairman represented all sections. But, the fact was that the official chairman represented the planters' section and ignored almost invariably the Indian section.

A still further argument that the Planters' community was opposed to a non-official chairman was absolutely untenable. A minority community had no right to hold up further reforms. It is true that the general standard of education was low but too much emphasis need not have been laid on this point. Educated and enlightened non-officials were available to take up the responsibility.

It is also true that this experiment of having a non-official president had not been tried in many parts of India. But that does not mean that it should not be tried in Assam.

The main reason why this reform was held up was the opposition of the district officers. India was governed by a bureaucracy. Though it was the best in the world, it had its own faults. The most conspicuous of them was jealousy which would not allow non-officials to interfere in any way whatever with any portion however restricted, of the administration of the country. It must also be said that the enlightened people of

the Province did not assert their right to manage their own affairs. Guided by parochial feelings they supported the British bureaucracy.

It must, however, be admitted that Government did not abuse this power. Critics, however, point out that sometimes it nominated a chairman even though the board concerned did not request by a two-thirds majority to do so.[40] Such appointments were sometimes made under extraordinary circumstances For instance, the minority parties would not attend the meetings called for election of chairman and thereby prevented a quorum being formed. Sometimes the elected members refused to undertake the responsibility of the office.[41]

Mehta Committee : Mohkuma Parishad : In the post-Independent period the entire constitutional structure of the rural boards was examined by the Mehta Committee. The committee recommended that the district officer should be the chairman of the zilla parishad. The Assam Panchayat Bill, 1958, embodied this recommendation. There was vehement criticism against this provision.[42] It is no doubt true that there is corruption, favouritism and logrolling in our local authorities and the administration is likely to be free from all these defects if the chairman happens to be the Deputy Commissioner because he is better educated and more disinterested than any resident of the sub-division who has the chance of getting himself elected as chairman. But there are valid reasons why he should not be the chairman of the Mohkuma Parishad. *First*, an official however disinterested he may be is not likely to understand the

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[40] A.L.C.P. 1938, Vol. 2, p. 219. Speech of Siddhinath Sarma.

[41] Ibid. Speech of Rev. J. J. Nichols Roy, p.p. 220-223.

[42] The Madras Government adopted this proposal. It is of the view that unless the Collector was the chairman of the district council, the Government would not be able to secure the due fulfilment by all the different departmental agencies in the district of the instructions given by it. If the Collector is not the President, the Council would not be able to function effectively.

See also the Report of the Study Team on Panchayat Raj in Assam, 1963. It also recommended that the Deputy Commissioner should be the president of the Mohkuma Parishad so that he may be able to take active interest in the development works in the district as a whole.

short comings of democracy. *Second,* economically and socially, the Deputy Commissioner occupies a higher position in the society and may not have the same capacity to understand the needs of the commonman. *Third,* Chairmanship provides opportunities to gain practical experience in *the art of ruling.* If our State and National cabinets are to be filled up with men and women, with previous administrative experience, chairmanship of local boards should be open to ambitious politicians. *Fourth,* no popular body can be genuinely democratic if it has an official as its chairman. *Fifth,* officers have a mind which is often rule ridden and routine bound and when they act accordingly, *Sixth,* the members of the Civil Service should not be permitted to participate in the framing of policies. Policies are not technical matters where expert advice is required. Framing of policies is a holy of holies into which the civil servant should not be permitted to enter. It is the sole prerogative of the representatives of the people. The civil servant must assist them with relevant material for the formulation of policies. He may influence and dominate the people's representatives with advice. This is a different matter. The main function of the civil servant is the implementation of the policies framed by the people's representatives. The people are the rulers and the civil servant is the instrument through which the will of the people is implemented.

Seventh, the argument that the administration of the Mohkuma Parishad would be efficient under official guidance is a fiction. As long as the local boards were under the control of the Deputy Commissioners, there was no substantial progress in any field. There was remarkable progress when they came under the control of non-official chairmen. Further, the Deputy Commissioners have enough revenue work to look after. They are likely to neglect the local government work. The Janapada Sabhas in Madhya Pradesh did not make any progress worth mentioning as long as they were under the control of revenue officers.

Eighth, the Deputy Commissioner as chairman of the Mohkuma Parishad, may feel embarrassed when the policies of Government are condemned or when the views of a particular minister are criticised. Such criticism cannot be avoided.

Ninth, as long as members of the State Legislature are also

members of the Parishad, the district officer would be conscious of the fact that one day, one of them may became a minister or that the minister may give a willing ear to complaints against the officer from the members of the legislature. This consciousness may compel him to do things not according to his conscience but according to the wishes of the members of the Legislative Assembly. If he should adopt such an attitude he becomes the subject matter of discussion in the press and on the platform which is not desirable.

Tenth, it is admitted that there is corruption and nepotism in the local boards. This is not a peculiarity of the Indian local authorities and it cannot be eliminated by the appointment of the district officer as the chairman of the district council. It is a spiritual disease which can be cured only by spiritual medicine-education of the people. All these days, we had a paternalistic type of government and the sense of social responsibility was either dormant or non-existant. To develop this human trait society may have to pass through the stages of corruption, nepotism and inefficiency. No woman, can have a child without experiencing labour pains and no society can become a democratic republic without some kind of moral crisis. All these arguments must have influenced the Select Committee which eventually dropped the provision for an official chairman.

Anchalik Panchayat : The Mehta Committee suggested that the Revenue Divisional Officer should be the chairman of every panchayat union, during the first two years of its existence so that he might organize the administrative machinery in the initial stages. The State Government officers did not endorse this recommendation because there would be dozens of Anchalik Panchayats in the revenue division. It was also not necessary because the services of the block development officer and of other officers would be available to the chairman and vice-chairman. So the Act provided that the President of the Anchalik Panchayat should be elected by its members.

Panchayats : As regards Panchayats, the Local Self-Government Act, 1915, provided both for the election or nomination of the president. In 1918-19, there were eighty village authorities. Sixty of them had non-official elected chairman. All others, were nominated non-officials. In 1925-26, all the chairmen were non-officials but 145 were elected and 83 were nomi-

nated by the Deputy Commissioner. Under the Assam Rural Self-Government Act, 1926, and the Assam Rural Panchayat Act, 1948, the President of the Panchayat had to be elected by the members of the board. The Assam Panchayat Act, 1959, however provided for the direct election of the president of the Gaon Sabha and the Gaon Panchayat. ' But it a President of a gaon panchayat or of an anchalik panchayat is elected president of an anchalik panchayat or of a Mohkuma Parishad he automatically ceases to be the president of the gaon panchayat and of the Mohkuma Parishad as the case may be.

Now the question is whether the direct election of the President of the Gaon Sabha is desirable. The system of direct election prevails in Uttar Pradesh and Bihar. For sometime it existed in Madras and Andhra. Certain advantages are claimed for the system of direct election, *First*, it brings out the real leader of the village. *Second*, it is more democratic. *Third*, under the system of indirect election, a candidate for the office of president may succeed by unduly influencing the relatively small number of panchayat members. But this is not possible where there is direct election. Only a person who enjoys the confidence of a majority of the people has a chance of being elected. Finally, as the candidate has to seek the suffrage of the voters belonging to all communities and all income groups under a system of direct election, it fosters unified leadership and discourages factions.

But the critics of direct election point out that the panchayat is intended to function collecively as a unit. The president is only the first among equals. He is not intended to be a separate authority standing part from and above the panchayat. Again, in villages, where there is an outstanding leader, a difference between the results of the two systems does not arise. It arises only in those villages where there is more than one leader and none is outstanding. In such cases, direct election to the office of president may be bitterly contested and there may occur split among the voters and as a consequence, factions may come into existence as they did in many places in Andhra, Bihar and Uttar Pradesh. Factions, thus generated may continue for a long time because of the intimate contact with one another. In many places, where direct election was prevalent, the president was not able to function effectively because the

members of the board did not cooperate with him. The President himself felt that he had a mandate from the electorate to act according to his lights. Above all the system of indirect election is the 'normal method followed for the election of chairman of municipal and local boards and there is no need to follow a different one for the gaon panchayat. It is admitted that where the president is elected indirectly he must depend upon his supporters for their cooperation and sometimes he may have to sacrifice principles for expediency. It is also true that factional rivalry exists in villages where there is indirect elec- factional rivalry exists in villages where there is indirect election, there is the give and take, the spirit of compromise and the accommodation of others views which are essential to the successful working of the local authorities. So, the provision of direct election of the president of the gaon panchayat was given up.

The present position is as follows : The chairman of all local authorities are elected non-officials. If a municipal board fails to elect a chairman or a vice-chairman, Government may appoint one of the members to be the chairman or vice-chairman as the case may be. Ordinarily he has to be a non-official.But under extraordinary circumstances he may be a government officer. Similarly, the chairman of the Town Committee may either be elected or nominated. The Presidents of the Mohkuma Parishad, Anchalik Panchayat and Gaon Panchayat must be elected by their members.

Unanimous Elections : A novel suggestion has been made by the Andhra Chamber of Municipal Chairman, that Government should pay a bonus of Rs. 25,000 to municipal boards which elect their chairmen by a unanimous vote. The reasons that induced the Chamber to adopt this resolution are that municipal boards should not be converted into playgrounds of politics, factionalism, and groupism which are likely to come into existence in case of a bitter contest. This suggestion is not practicable, because it may create a stalemate in the affairs of municipal boards.

Procedure for the Election of Chairman : The procedure for the election of the chairman of the municipal boards was prescribed for the first time in 1932 which is still in force. The Commissioner should fix the date of election. The Deputy Com-

missioner should appoint one of the members of the board to preside over the meeting if it happened to be the first one after a general election. The President *tempero* should first take the oath himself and administer it to the other members present. The meeting should then proceed to elect a chairman provided at least one half of the total number of members were present. Otherwise, the meeting should be adjourned. The adjourned meeting should be convened after three days notice and the members present formed the quorum whatever their number may be. A day before the date fixed for the election, nomination papers should be presented to the magistrate. When more than two candidates are nominated and in the first ballot no candidate has polled a majority of the votes, the candidate who obtained the least number of votes should be eliminated from the contest and a second ballot should be taken. If no candidate obtains an absolute majority even in the second ballot a third ballot should be taken after eliminating the candidate who obtains the least number of votes in the second ballot. This has to go on until a candidate obtains an absolute majority. If two candidates obtain equal number of votes lots must be drawn.

As regards the local boards, the Local Boards Act, of 1915, did not prescribe the procedure for the election of chairman. But the Act of 1953, said that the Deputy Commissioner should appoint a member of the board to preside over the meeting called for the election of chairman provided the person so appointed was not a candidate for the office of chairman or vice-chairman. The president protempero had first to take the oath of affirmation himself and then administer the oath to the other members present. In case of an equal division of votes, the decision was by lot. Thus, the chairman of the local board was elected by a simple majority and there was no need for an absolute majority as in the case of municipal boards. The same procedure is followed for the election of the president of the Mohkuma Parishad and Anchalik Panchayat, excepting in one respect. In the case of local boards, the meeting called for the election of chairman was presided over by one of the members. In the case of Muhkuma Parishad and Anchalik Panchayat, it is presided over by the Magistrate.

Simple majority in the case of rural boards does not appear to be desirable. If there are three candidates, one of them is ment of the person elected as chairman, an invidious distinction in the boards where the chairmen were elected by a minority vote.

Approval of Election : In regard to approval by Government of the person elected as chairman, an invidious distinction has been made, between the chairman of the municipal boards and the chairman of other local authorities. A person elected as municipal chairman must secure the approval of Government. This is not required in the case of others. The reasons given for the existence of this provision in the Municipal Act are amusing and unconvincing. It is said that it is only a reserve power, intended to be used when an undesirable person is elected ; or if a chairman of a local board is elected as chairman of a municipal board ; if a dismissed government servant gets himself elected and so on. There are however, precedents in support of this provision. The person elected as Speaker of the House of Commons must secure the approval of the Queen. It must, however, be said that this is a mere formality. Its presence has not been felt by any one. But it must also be said that it provides opportunities for an unscrupulous government to abuse this power as the Senate of the United States had done. The classes of persons mentioned above can be prevented from becoming chairmen of municipal boards by making the list of disqualifications more comprehensive.

Term of Office : Under the Municipal Acts of 1850, 1864, and 1876, the chairman held office as long as he continued to be the Magistrate of the place. The vice-chairman held office for a term of one year with an indefinite eligibility for re-election. Under the Acts of 1884 and 1023, the chairman and vice-chairman of a municipal board held office for three years with an indefinite eligibility for re-appointment or re-election. However the chairman and the vice-chairman had to continue in office until their successors were elected or appointed. Under the Municipal Act, 1956, the term is four years and the chairman continues in office until his successor is elected.

As regards local boards, prior to 1915, the Deputy Commissioner was the ex-officio chairman and therefore there was no fixed term. But under the Local Self-Government Act, 1915,

the chairman held office for a term of three years from the date of his appointment or election. Under the Act of 1953, it was four years. Under the Assam Panchayat Act, 1959, the Presidents of the Gaon and Anchalik Panchayat and of Mohkuma Parishad hold office for a period of four years from the date of their first meeting till a new board is constituted.

The present writer thinks that the term of office should be five years. Five year term is suggested so that something significant may be done by the chairman.

Now the question is whether the number of terms should be limited to one or two or indefinite. There are two views on this matter. One is, that no limitation should be placed on the freedom of the members to elect their chairmen. The other view is that no one should hold office for more than one term because there is a great demand upon the time and energy of the chairman of a large local authority. Virtually it is a full time job. So in England, the normal practice is that a person is not re-elected for the second term. He has his single year of office during which he must give up most of his other work and he cannot be expected to do that over a longer period. If he does he is likely to become corrupt. Further, it is a coveted job because of the social prestige attached to it.

Removal of Chairman : The chairman of a local authrity may be removed in two ways, by the Government or by the board. But there was no uniformity in the procedure prescribed for the removal of a chairman. It varied from one local authority to another and from time to time. Under the Municipal Act, 1876, no provision was made for the removal of chairman because he was a salaried officer of Government. Only the vice-chairman could be removed from office by a two-thirds vote of the members present and voting. Government had no power to remove him. Under the Acts of 1884 and 1923, Government had power to remove a chairman appointed by it but not the chairman elected by the board even though he might have persistently defaulted in the discharge of his duties imposed on him by the Act or refused to carry out the orders of Government. The municipal board had power to recommend the removal of a chairman whether elected or appointed by a special majority of two thirds of the total strength of the board. It was in 1956, that Government acquired this power.

As regards local boards, the Local Rates Regulation did not provide for his removal as he was the district officer. The Act of 1915, authorised the Government to remove a chairman appointed by it but not the chairman elected by the board. The Acts of 1926 and 1953 however provided for the removal of any chairman elected or appointed by Government. In the original Act of 1915, the local board had no power to remove a chairman elected or appointed. But under the Acts of 1926 and 1953 the board had power to remove any chairman by a two-thirds vote of the total strength.

Under the Panchayat Act, 1959, Government has power to remove the president of an Anchalik Panchayat or of a Mohkuma Parishad, if he refuses to act or becomes incapable of acting or acquired any one of the disqualifications prescribed for the members or if his continuance in office is dangerous to public order or is likely to bring the administration of the local authority into contempt. The Mohkuma Parishad, Anchalik Panchayat or Gaon Panchayat may remove its president or vice-president by a three-fifths majority of those present and voting provided two-thirds of the total strength is present and voting.

As regards Panchayats, the Assam Rural Self-Government Act, 1926, provided for the removal of the President by Government if he was sentenced by a court to imprisonment for a period of one month and above or ordered to give security for good behaviour under the Code of Criminal Procedure, 1898 or defaulted in the discharge of his duties. But no provision was made for the removal of the president by the board. The Assam Rural Panchayat Act, 1948 went a step further and provided for the removal of the president not only by Government but also by the board. The Assam Panchayat Act, 1959, provided for the removal of the president of the gaon sabha, either by Government or by the Sabha itself, by a three-fifths majority of those present and voting provided at least one-third of the total number of members were present at the meeting.

From the above it is clear that all the local Acts did not provide for the removal of a chairman by a no-confidence motion. A resolution expressing want of confidence in the chairman, if passed, amounted to a censure of the chairman.

There is nothing in the Acts requiring the chairman to resign on such censure motions. Even Government has no power to remove him on the basis of such a resolution. The removal of chairman can be obtained only by a resolution passed by a two-thirds majority of the members of the board at a meeting specially convened for the purpose provided the resolution obtains the approval of Government. Thus, a no-confidence motion is not a substitute for a resolution of removal. A chairman may resign after a no-confidence motion is passed by a two-thirds majority recommending his removal. If he does not resign and if Government does not approve it on the ground that it is perverse, the resolution is ineffective[43]

Further, the majority prescribed for the removal of the chairman of an Anchalik Panchayat, Mohkuma Parishad or Gaon Panchayat is very low. It must be raised to 2/3 of the total strength in order to give a greater measure of security to the chairman. The arguments of some that it should not be raised further are untenable because that would defeat the very purpose of the provision in the Act.

The statutory provision relating to the removal of a chairman vests wide discretion in Government. For instance, such words as " misconduct and dangerous " are vague and are likely to be interpreted by an unscrupulous government in such a manner as to cause great injustice to political opponents.

At first no provision was made in the Acts making it obligatory on the part of Government to give an opportunity to the person concerned to show cause why the proposed action should not be taken against him. This was made in 1962. In 1964, it was further provided that Government may at any time suspend a president or vice-president of any rural local authority pending its removal under the Act if his continuance in office is considered inadvisable.

The Acts prohibited all persons who have been removed from the office of chairmanship either by the board or by Government from seeking re-election. A distinction ought to have been made between removal by the board and removal by Government and only those who belong to the second cate-

[43] Mahichandra Bora *vs.* Secretary Local Self-Government Department State of Assam I.L.R. 1952. Assam p! 217.

gory should be prohibited. The former ought not to be penalised for obvious reasons. Very often a board removes a chairman whose opinions and acts are not acceptable to the majority. Further, the period during which he should not seek re-election should have been prescribed. As the provision stands at present, the person concerned is prohibited for all time to come which is undesirable. The Madras Acts prescribe one year or till the next ordinary elections to the panchayat which ever is earlier. It may be argued that the person removed may seek re-election with the permission of Government. This is an undesirable provision because it gives scope to an unscrupulous government to refuse permission to political opponents.

Now the question is whether Government should be vested with this power—power to remove a chairman of a local authority who has been democratically elected. Opinion is divided on this issue. Some argue that Government should not be endowed with this power because provision has already been made for the removal of an undesirable chairman by a resolution of the board. Again, the Deputy Commissioners and the Commissioner have been endowed with enough powers to check a chairman who is going off the track ; with this provision in force self-respecting men will not come forward to render service to the local authorities. Above all, Government may be tempted to misuse this power for political reasons.

Theoretically all these arguments are sound but we have to view things pragmatically. How a chairman who refuses to obey or carry out the provisions of the Act, and at the same time supported by a majority of the board is to be dealt with ? All that Government can do in these circumstances is to supersede or dissolve the board which is certainly undesirable. The fear that Government might be tempted to abuse this power is unfounded. Even under compelling circumstances, it has not used this power. As long as there is vigilant and critical public opinion Government dare not abuse this power. Above all, its existence need not be felt and has not been felt by an honest and upright chairman just as an honest citizen does not feel the presence of the Criminal Procedure Code. For about a century this provision was not in the Local Acts. But its absence was felt and therefore provided. It is a gun behind the door.

Resignation : All the local Acts provide for the resignation

of the chairman and vice-chairman. But an elected chairman should submit his resignation to the board and the nominated chairman to Government through the Commissioner. But a chairman who has resigned and whose resignation has been accepted must remain in office until his successor is elected. Prior to 1923, the resignation came into effect immediately after its acceptance but in that year it was laid down that the chairman should remain in office until his successor was elected because a case had occurred in which both the chairman and the vice-chairman resigned. The members of the board were so divided that they could not elect a temporary chairman to preside over the meeting to elect a new chairman and vice-chairman. The result was a deallock. For some months the board was without a chairman and a vice-chairman. To obviate such situations the Municipal Act, 1923 provided that the resignation of the chairman should not take effect until his successor was elected or appointed.

Functions : Normally, the chairman of a local authority functions in two capacities, first as the agent of Government and second, as the chief executive of the board. In his first capacity he performs delegated functions. In his second capacity he exercises statutory functions.

Let us *first* consider the statutory functions of the chairman. He is the presiding officer of the local authority. In his absence, the vice-chairman presides. If he is a candidate for election to the office of chairman, he should not preside over the meetings called for the purpose; nor should he preside over the meetings called for the discussion of a motion to remove him from office.

Second, as the chief executive authority of the board he is responsible for the execution of the resolutions passed by the board. Failure on his part to discharge this function may result in his removal from office.

Third, he should call meetings at stated intervals. He may call special meetings also but he must call meetings requisitioned by members. Failure to comply with a valid requisition may result in his removed. Finally, he is responsible for the organization of the office, for the collection of revenue, and for numerous other functions.

Powers : Let us consider the powers of the chairman. In general, the chairman may exercise all the powers vested in the

members. But he should not act in opposition to or in contravention of any order of the board. Nor should he exercise any power which should be exercised by the board. He can delegate his powers to the vice-chairman and with the approval of the board to its officers.

Besides this general rule, he is specially endowed with certain powers which he can exercise independently of any other authority. *First*, he has a second vote—a casting vote— in case of equality of votes. *Second*, he has power to appoint certain classes of officers. Under the Municipal Act, 1876, he was authorised to appoint officers whose monthly salary did not exceed Rs. 200. Under the subsequent Acts, the monetary limit was reduced to Rs. 50 and below. Under the Local Rates Regulations the chairman nominated the candidates for appointment by the board. Under the Local Boards Act, 1915, and 1953, he had no power of appointment. It was the board that exercised this power. Under the Assam Panchayat Act, the President of the Anchalik Panchayat and of the Mohkuma Parishad have no power of appointment.

As regards disciplinary powers, the chairman has power to take disciplinary action against a delinquent subordinate subject to certain conditions. Under the Municipal Act, 1876, he had no power to dismiss a servant whose monthly salary was Rs. 50 and more without the sanction of the Commissioner Under the subsequent Acts, the monetary limit was reduced to Rs. 20. Under the Local Rates Regulation, the chairman of a local board had no power to dismiss any servant. This power was vested in the District Committee. Under the Local Boards Act, 1915 and 1953, the chairman was vested with this power.

The chairman of a municipal board is endowed with certain emergency powers. Under the Municipal Act, 1923, he could execute any work which the board was competent to execute provided the immediate execution of it was necessary in public interest. However, the chairman had to report the matter to the board at its next meeting together with the reasons for his action. But the chairman of the local board was not endowed with emergency powers.

Under all the local Acts, the chariman is also the executive authority. As long as the Deputy Commissioner or the sub-divisional officer was the chairman of a local authority, the

desirability of combining political and administrative functions in one and the same person did not arise. With the appointment of non-officials as chairman the problem arose. In 1918, the Government of India, suggested that where the chairman was a non-official, the administrative work should be entrusted to a paid executive officer. But the proposal was opposed both by the district officer and the non-official chairman. The district officer who was also the chairman of the local boards within his jurisdiction did not like to part with power. The non-official chairman viewed the proposal with suspicion. He thought that it was a device invented by the bureaucracy to deprive him of the few powers which he possessed. In the meanwhile the non-cooperation movement started by the Mahatma shook the foundations of the British Rule in India. In their anxiety to prevent non-officials from joining the rank of the non-cooperators, the idea of appointing a separate executive officer for local authorities was given up.

But the fact must be admitted that a non-official chairman, elected for a term of three or four years, may not possess all the qualities of an executive officer. The fundamental objective of the administration is the accomplishment of the work with the least expenditure of man-power and material. A politician is not capable of accomplishing this objective. Planning, organization and budgeting require a mastery of details which a non-official chairman cannot be expected to do because his political activities subtract much of his time and energy available for administration, planning, regulation and direction. Above all, there is need for the coordination of the activities of the departments. The chairman is not the person to be entrusted with this fusction. From the above, it follows that the administration of the Mohkuma Parishad, the Anchalik Panchayat and the Municipal Boards must be entrusted to paid, professional and permanent officers who can be expected to possess such qualities as honesty, independence, courage, keen interest in the administration of the board, energy, decision, pertinacity, tact, and the instinct to reject the unimportant and the irrelevant. Inspite of these evident truths, the chairman still continues to be the executive officer.

Although the chairmen of the local authories are endowed with enormous powers, their freedom of action depends on several

factors which are too complex for analysis. But this much is true. The official chairman was better educated and more disinterested than the non-official chairman. He was invariably the revenue officer who always wielded more authority than the non-official chairman. Above all, his knowledge of local affairs enabled him to dominate the local authority particularly in view of the fact that he did not owe his position to the good will of the members of the local authority concerned.

An elected chairman, on the otherhand, comes to office and remains there so long as he retains the goodwill of the members of the local authority. In these circumstances he is not the master of the situation. He can only argue bully, persuade, cajole and threaten but has no power to control with absolute authority, if he has no majority behind him. Any elected chairman who seeks to impose his will, soon discovers the limits of his powers. In other words he exercises his powers subject to the limits imposed by his followers. What he can get often depends upon his capacity to judge the limits of his powers. Ultimately, his authority now largely depends upon his personality and on the qualities of his mind. Thus, the position of a non-official chairman is a difficult one. He is assailed by various interests and ambitions. He is bullied by different claims and opinions. To counter all these forces he must be endowed with such human traits as tact, patience, and above all, an equanimity of mind.

Leave of Absence : Under all the Municipal Acts, the chairman and the vice-chairman are entitled to three months leave in a year. If a chairman overstays the duration of the leave period he automatically vacates his office but not the membership of the local authority. Law does not prohibit the re-election of such persons. The president of the Gaon Sabha, Anchalik Panchayat and Mohkuma Parishad are not entitled to any kind of leave of absence.

Training : One of the difficulties encountered in the functioning of Panchayats at present is that most of the presidents are not qualified by education or training to carry out effectively the functions of the office or to assume the responsibility entrusted to them by the Panchayat Act. As their level of education is generally low, a great majority of them do not understand their duties and responsibilities. As a consequence, in the initial

stages, the administration of Panchayats was not efficient.. Realising the importance of training, the State Government has organized training camps. A Panchayat Raj Training Institute has been established under the management of a non-official body called the Assam Cooperative Union. Another Institute will be set up under the conrtol of the Bharat Sevak Samaj.

CHAPTER IX

CONSTITUTIONAL STRUCTURE

Local authorities are corporate bodies having perpetual succession and a common seal with the right to sue and be used. One of the essential characteristics of a local authority is that it has a council or a board consisting of representatives elected by adult franchise to administer the functions and to exercise the powers entrusted to it. In Assam, however, not all the local authorities were corporate bodies. The local boards, constituted under the Local Rates Regulations were not corporate bodies. During the period 1879 to 1915, they rested on an executive order and therefore were not considered as local authorities for purposes of Local Authorities Loan Act, 1874. It was only after the enactment of the Assam Local Self-Government Act, 1915, the local boards obtained the status of a corporate body.

Strength and Composition : Municipal Boards: The Town Improvements Act, 1850, did not prescribe the minimum nor the maximum strength of the Municipal Boards. Nor did it specify the proportion of officials to non-official members of the board. It simply said that the board would consist of such number of inhabitants as were necessary to be the commissioners with the District Magistrate as its ex-officio commissioner. The lone Gauhati Municipal Board constituted under this Act consisted of three commissioners, including the District Magistrate.

The District Municipal Improvements Act, 1864, effected certain improvements in the composition of the municipal boards. It prescribed the minimum strength of the board at seven; it increased the ex-officio element from one to three, the Magistrate, the Executive Engineer and the District Superintendent of Police; it did not state the number of officials that might be nominated nor their proportion to non-officials. It was the District Towns Act, 1868, applicable to small towns, that prescribed the proportion of officials to non-officials. Not less than one-third of the total strength of the board should be officials. The others might be non-officials and ex-officio members. Like the Act of 1864, it prescribed the minimum at five. The Act also provided for the

constitution of ward committees, consisting of not less than three persons.

The Bengal Municipal Act, 1876, classified municipal boards into two, first and second class. It reduced the strength of the official element from one third to one fourth, it prescribed not only the minimum but also the maximum. The first class municipal board should have not less than seven and not more than thirty and the second class not less than four and not more than twenty. The actual strength of each municipal board was determined from time to time by Government. Though the strength of the ex-officio element continued to be three, there was a change in the officers appointed as members. Under the Act of 1864, the District Superintendent of Police was an ex-officio members of the board. But he was dropped and his place was taken by the Sub-Divisional Magistrate. The three ex-officio members were the Deputy Commissioner, the Magistrate of the place and the District Medical Officer. The members other than the ex-officio might be elected or nominated or partly elected and partly nominated. Each ward had a committee of its own, consisting of not less than three persons who need not necessarily be members of the board.

The Stations consisted of the Magistrate as the ex-officio member and such number of members as were necessary.

The Municipal Act, 1884, introduced radical changes in the composition of the municipal boards. It completely eliminated the ex-officio element. It increased the minimum from seven to nine though there was no change in the maximum 30; it laid down that two-thirds of the total number of members must be elected, the remaining one third being nominated by Government. Of the members nominated by Government, not more than one-fourth of the total strength should be officers. If the electorate failed to elect the required number of members Government might fill up the vacancies by nomination. Thus the most significant feature of the Act of 1884 was that a majority of the members of the municipal board were elected by the qualified ratepayers. This was definitely an improvement over the previous state of affairs.

The Assam Municipal Act, 1923, effected a further improvement in the existing composition of the municipal boards. It increased the minimum strength from nine to ten though there

was no change in the maximum 30. The actual strength of the board was determined from time to time by Government with reference to population of the area. Official element was completely eliminated but Government retained the right to appoint Government officers as supernumerary members, who had the right to attend and participate in the proceedings of the board but no right to vote. Again, the strength of the nominated element was reduced from one third to one-fifth of the total strength and thereby increased the influence of the elected element. At the same time, the Act provided for all the seats being thrown open to election. However, the Act authorised the Government to nominate all the members of any municipal board constituted after 1923 or of any municipal board which was reconstituted after a period of supersession. If the electorate failed to elect the required number of members the vacancies might be filled up by nomination.

The Municipal Act, 1956, further effected certain changes in the composition of the municipal boards. It made no changes in the minimum or in the maximum prescribed by its predecessor. But it eliminated almost completely the nominated element. Though at present Government retains the power to nominate members, the number of members that may be nominated should not exceed two on any board. The principle of nomination is retained in order to secure representation of the Scheduled Castes, the Scheduled Tribes and other socially and educationally backward communities. At the same time Government is authorised to nominate all the members of a newly constituted board who shall hold office until the next general elections. Or, if the electorate fails to elect the required number of members even at a second election, Government may fill up the vacancies by nomination.

As regards Town Committees, the strength and composition is determined by Government. The composition of the municipal boards was as follows during the period 1852-53 to 1950-51.

Year	Offi- cial	Nomi- nated	Elected	Total	Offi- cial	Non- Official	Euro- pean	Indians.
1853	1	2	—	3	3	—	3	—
1885-86	22	44	59	125	48	77	25	100
1900 01	21	70	53	144	50	94	29	115
1910-11	32	79	56	167	46	121	40	127
1918-19	40	73	128	241	50	191	30	211
1931-32	22	68	244	334	30	304	12	322
1939-40	38	80	240	258	40	318	13	345
1950 51	44	59	194	297	41	256	—	297

The statistical survey enables us to arrive at certain conclusions. A hundred years ago, the lone municipal board was completely dominated by officials. It is true that their number on the boards was small though their influence was predominant. By 1923, the official element was eliminated in the sense that they had a voice but no vote. In other words, they did not exist for all practical purposes.

In 1853, all the members of the board were nominated. In 1885-86, they constituted one-third of the total and continued to be so throughout the period 1900 to 1915. Since then there has been a gradual reduction in the influence of the nominated element. In 1930, they constituted 23 per cent of the total number.

In 1853, the municipal boards did not contain elected members. They constituted nearly fifty percent of the total in 1885, and 98 percent in 1951. The European element which was 100 percent in 1853 was reduced to 20 percent in 1885 and nil in 1951. As a consequence of the reduction of the European and the official element, their influence in the boards was eliminated.

In 1853, there were no Indians on the municipal board. There has been a gradual Indianization of the municipal boards. In 1885, they were 80 percent of the total. In 1940, of the 283 members 277 were Indians. In 1951 there were no Europeans in any municipal board.

Though the picture we obtain as a result of a comparative study of the figures from decade to decade is satisfactory yet it must be said that sometimes the composition of certain individual boards was not satisfactory. For instance, in 1885, ten of the fourteen member of the Shillong municipal board were

officials.[1] In Dibrugarh the official element was dominant for sometime. In Shillong, for instance, eleven of the thirteen members were nominated in 1890. In 1913, there was not a single elected member in ten municipal boards. But by 1950 all the boards had elected members and they were in a majority.

Local Boards : Under the Bengal Road Cess Act, 1871, the composition of the District Road Committees was as follows. One-third of the total strength was ex-officio. Others were either appointed or elected. The Branch Committees might consist of any number of members. The Act did not prescribe the maximum or the minimum like the Municipal Acts.[2] Besides the District Committee, there was also the Government Estates Improvement Committee in every district consisting of the District Magistrate, the Civil Surgeon and the District Engineer. After Assam was constituted into a Chief Commissioner's Province in 1874, the existing committees were replaced by the District Road Committee the District School Committee and the Dispensary Committee whose strength and composition varied from time to time.[3] In 1879, all these committees were replaced by a single committee. The Assam Local Rates Regulations laid down that the District Committee should consist of not less than six persons of whom not less than one-third should be non-officials. In addition to the District Committees, there might be branch committees consisting of not less than three of wohm two had to be residents of the area concerned. The members of the Branch Committees were also members of the District Committees.[4]

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[1] Assam Gazette 19-5-1885, pp. 225. In 1882, the Silchar Municipal Board consisted of 15 memners. Of them ten were elected. But the most unsatisfactory feature of the elected element was that of the ten members elected seven were officers.

[2] Assam Gazette 22-9-1877. The Goalpara District Committee consisted of eighteen members of whom six were ex-officio and twelve were non-officials. The ex-officio members were the Deputy Commissioner the Senior Assistant Commissioner, the Sub-Divisional Officer Dhubri, the Civil Surgeon of Goalpara, the Executive Engineer and the District Superintendent of Police.

[3] Ibid. 11-5-1878. The Cachar District Improvmeent Committee consisted of the Deputy Commissioner, the District Superintendent of Police and sixteen others.

[4] Ibid. 1877, p. 221. The Kamrup Improvement Committee consisted of thirty one members.

In 1880, the composition of the District Committees was as follows.[5]

District Committee	Total Strength	Ex-officio	Others
1. Cachar	9	5	4
2. Kamrup	16	8	8
3. Goalpara	25	6	19
4. Darrang	17	4	13
5. Nowgong	10	4	6
6. Sibsagar	17	8	9
7. Lakhimpur	10	4	6
8. Sylhet	25	6	19

In 1882, the Government of India suggested certain improvements in the composition of the local boards. The number of non-officials was not to be less than half. But that proportion was already reached in Assam. In some places, the proportion of non-officials to officials was even 2 to 1. Considering the travel difficulties that non-official members experienced for attending the meeting of the board, the Chief Commissioner suggested that the strength of non-officials should not be less than half of the total strength of the board.

In 1882, the District Committees were abolished and their place was taken by local boards established in each sub-division.[6] The minimum strength of each local board was not to be less than eight and not more than twenty four. In other words, the sub-divisional boards would be bigger than the district committees established in 1879. The actual strength of the board was determined by Government from time to time.[7]

There was some controversy as regards the composition of the sub-divisional boards. Elliot, at first held the view that the Deputy Commissioner should not be a member of the board. If official assistance was absolutely necessary it should be given by attaching a subordinate officer, ordinarily an Indian extra-Assis-

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Ibid. 8-7-1876, p. 391. The Cachar District Road Committee consisted of seven members.

Ibid. 8-7-1876, p. 419. The Kamrup District Road Committee consisted of twenty members.

[6] Ibid. 27-12-1879 and 21-6-1880.

[6] Ibid. 8-1-1880.

[7] Ibid. 4-7-1883. In 1883 the composition of the local boards was as follows:

tant Commissioner to the board. This proposal was opposed by almost all his subordinates. So Elliot modified his previous attitude and said that the Deputy Commissioner might be a member of the board. He also suggested that the Civil Surgeon and the District Superintendent of Police also might be ex-officio members of the board. Elliot thought that the official position of the Civil Surgeon was such that it would not affect free discussion. The District Superintendent of Police was included because he would have a better knowledge of the condition of the district roads as a result of his constant touring in the district. The District Engineer and the Deputy Inspector of Schools at the headquarters could also be useful members of the board. In any case, the number of officials was not to exceed one-third of the whole number.

In 1883, there were nineteen local boards. In all of them non-officials were in a majority. Excepting the representatives of the planters all other non-officials were nominated. But in Dibrugarh, North Lakhimpur, Sibsagar, Jorhat, Golaghat, Nowgong, Tezpur, Mangaldai, and Silchar, official and European members, who always acted together constituted a majority.[8]

In 1899, Cotton made certain proposals for the reconstitution of the local boards. Elliot, fixed the maximum strength of a local board at twenty-four. Cotton thought that a board consisting of twenty-four members would be unwieldy for the quick transaction of business. So he wanted to reduce it to eighteen.

Name of the Board	Officials	Non-officials	Elected	Nominated
1. Gauhati	1	17	3	14
2. Barpeta	2	6	—	10
3. Mangaldai	2	10	—	10
4. Tezpur	4	12	—	12
5. Dibrugarh	4	33	22	11
6. North Lakhimpur	2	8	4	4
7. Sibsagar	4	12	—	12
8. Jorhat	2	12	6	6
9. Golaghat	2	12	—	12
10. Silchar	2	24	12	12
11. Hailakandi	2	8	4	4
12. North Sylhet	3	21	5	16
13. Karimganj	3	27	9	18
14. South Sylhet	3	27	9	18
15. Dhubri	5	14	—	14
16. Goalpara	1	8	—	8

Of this, not more than one-third should be officials. Non-official members might be partly elected and partly nominated.[8]

Act of 1915 : Cotton's proposals could not be given effect to because of the partition of Bengal and the consequent inclusion of Assam in East Bengal. In 1912, partition was annulled and Assam was reconstituted into a Chief Commissioner's Province. The Local Boards Act, 1915, fixed the minimum strength of a local board at twelve and the maximum at twenty. The ex-officio members were the Deputy Commissioner, the Civil Surgeon, the Executive Engineer and the Deputy Inspector of Schools. In case a non-official was appointed chairman of the board, an extra-assistant commissioner, instead of the Deputy Commissioner was the ex-officio member. The presence of these officers on the board was considered essential. Provision was made for the nomination of members. In any case, the boards were to have a non-official majority. But the elected members were divided into four classes each being elected by an electorate of its own. The Planters' representatives were elected by planters qualified to vote; the head-quarters member was elected by the resident voters of the headquarters; the mercantile member by the mercantile community and the rural members by the general electorate.[9][9a]

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[8] Administration Report—Assam, 1883-84.

[9] Draft Regulations, 1899.

[9a] The composition of the local boards was as follows in 1918.

Name of the Board	Total strength	Nomini-nated	Elec-ted	Elected Member			
				Plan-ter	Head quarter	Mercan-title	Rural
1. Silchar	18	5	13	7	1	1	4
2. Hailakandi	14	6	8	4	1	1	2
3. North Sylhet	18	8	10	4	1	1	4
4. Karimganj	20	8	12	6	1	1	4
5. South Sylhet	20	8	12	6	1	1	4
6. Habiganj	20	9	11	4	1	1	5
7. Sunamganj	18	8	10	—	1	1	8
8. Dhubri	16	7	9	—	1	1	7
9. Goalpara	12	5	7	—	1	1	5
10. Gauhati	16	7	9	—	1	1	5
11. Barpeta	12	5	7	—	1	1	5
12. Tezpur	17	5	12	6	1	1	4

In 1920, the ex-officio element was reduced to two, the Civil Surgeon and the Deputy Inspector of Schools alone remaining members. In 1926, the strength of the board was fixed at sixteen, partly elected and partly nominated. The Local Boards Bill, 1925, contemplated the election of all members of the board. But the Select Committee recommended that Government should have the power to nominate certain number of members on the ground that about 70 percent of the income of the boards was derived from Government grant. Further, franchise was very limited. For instance, in Sunamganj, the population was 5,06,000 but the number of voters was only 17,000 and a vast majority of them were under the influence of a few powerful persons. So, there was the risk that these few persons might utilize local funds for their own benefit. Above all, there were capable persons who were not prepared to contest elections. How to utilize their services? Although the principle of nomination was retained, the number of persons that might be nominated was not to exceed one-fifth of the total strength of the board.[10] The elected seats had to be distributed in such a manner so that every community and every locality could get its due in propor-

13.	Mangaldai	16	6	10	6	1	1	2
14.	Nowgong	17	6	11	5	1	1	4
15.	Sibsagar	17	5	12	6	1	1	4
16.	Jorhat	17	5	12	6	1	1	4
17.	Golaghat	17	5	12	6	1	1	4
18.	Dibrugarh	22	7	15	8	1	1	5
19.	North Lakhimpur	16	6	10	6	1	1	2

[10] A.L.C.P. Vol. 6, p. 850. Speech of Mr. Amarnath Ray.

Ibid. p. 852. Speech of Lt. Col. W. D. Smiles.

Ibid p. 664. Speech of Mr. Kudadhar Chaliha. There was an interesting debate in the Legislative Council whether the principle of nomination should be retained. Familiar arguments were advanced by the respective parties. Arguing against the principle of nomination. Mr. Kuladhar Chaliha made a sensational disclosure viz., that the nominated members went to the Deputy Commissioner and ascertained his views and voted according to his instructions.

Ibid. p. 869. Speech of Mr. Nilmoni Phukun. While defending the principle of nomination Mr. Phukan said that most of the voters were illiterate and therefore did not understand the value of the privilege conferred on them.

tion to its strength in the population and the contribution it made by way of taxes.

Again, the official element was not eliminated. The Government was authorised to nominate a certain number of officials of the Provincial Government as supernumerary members. Under this power, Government nominated officers to represent the departments of Education, Medical, Public Health and Public Works. The difference between the supernumerary members and others was that the former had the right to participate but no right to vote. In practice, the supernumerary members did not participate actively in the deliberations of the boards. As a matter of fact many of them never attended the meetings of the board. So it may be said that for all practical purposes the official element did not exist.

Government had complete discretion in regard to the distribution of elective seats among the different communities and localities. However, the factors that were taken into account in the allotment of elective seats among the various communities were population, area and the local rates paid.[11]

Act of 1926 : In 1927, the strength and composition of the Local Boards was revised in the light of the principles laid down by the Local Self-Government (Amendment) Act, 1926,[12] and

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[11] No. 97-121. L.S.G.-A, December 1927. Let us take the Sibsagar Local Board. The figures were as follows :

	Planters	Muslims	Non-Muslims
Population	76,444	12,603	94,910
Area, acres	1,24,223	2,74,231	
Rates	Rs. 23,347	Rs. 2,852	Rs. 40,325
Seats allotted	7	2	11

In the allotment of seats rate was taken as the basis. If population had been taken they would obtain a large number of seats.

135-168 L.S.G.-A, March 1929. On the basis of population area or rates planters were not entitled even to a single seat on the Barpeta Local Board. So one seat was allotted to that community.

No. 530-557. L.S.G.-A, March 1918. On the basis of the area held planters should get the same number of seats as Muslims and non-Muslims combined together on the Dibrugarh Local Board. On the basis of rates, planters should get more seats than the Muslims and Non-Muslims combined together. So rates were taken as the basis for the allotment of seats for planters.

[12] Annual Report—Local Boards, 1927-28, p 1.

the rules made thereunder. There were three constituencies, Muhammadan Non-Muhammadan and Planters. The distribution of elective seats was as follows:

	Prior to 1927			After 1927		
	Non-Muslims	Muslims	Planters	Non-Muslims	Muslims	Planters
Assam Valley	1000	29	51	133	45	54
Surma Valley	39	35	31	52	60	32

Thus, there was an increase in the strength of the boards and also in the representation of the communities concerned. The representation of non-muslims increased on the whole by 33 percent, Muslims by 64 percent and planters by about five percent.[13]

In 1945, the strength and composition of the Local Boards was revised as a result of insistent demand by the Ahoms, the Scheduled Tribes, (Plains) and the Scheduled Castes for separate representation. As a result of this revision seats were reserved for all these communities. The reservation of seats necessitated an increase in the number of elective seats and a reduction in the

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[13] No. 97-121. L.S.G.-A., December 1927. The distribution of seats was as follows :

Name of the Board	Strength	Nominated	Elected			
			Distribution of seats			
			Planters		Non-Muslims	
1. Silchar	23	4	19	7	7	5
2. Hailakandi	20	4	16	5	5	6
3. North Sylhet	26	3	23	4	7	12
4. Karimganj	26	3	23	6	8	9
5. South Sylhet	23	3	25	6	7	7
6. Habiganj	28	3	25	4	10	11
7. Sunamganj	22	4	18	—	8	10
8. Dhubri	25	4	21	—	12	9
9. Goalpara	16	3	13	—	8	5
10. Gauhati	28	5	23	2	16	5
11. Barpeta	20	4	16	—	11	5
12. Tezpur	23	4	13	6	11	2
13. Mangaldai	28	3	20	6	12	2
14. Nowgong	23	3	20	5	10	5
15. Sibsagar	23	3	20	7	11	2
16. Jorhat	23	3	20	6	11	3
17. Golaghat	23	4	19	6	11	2

number of nominated seats. Further, the strength of the individual boards was also increased. The ex-officio element was eliminated. The strength of the planters community was also reduced on most boards. For the first time in the history of the local boards, the Scheduled Tribes (plains) and the Scheduled Castes were given representation by election which was hitherto done by means of nomination. Similarly, seats were reserved for a progressive community like the Ahoms in five of the nineteen boards and the total number of seats reserved was just twelve in all of them. It is regrettable that an intelligent and progressive community should have demanded reservation and still more regrettable that it was conceded.

In 1950, there was again a reorganization of the boards necessitated by the framing of the new Constitution of India. As a consequence, communal representation was abolished. Planters' and Muhammadan constituencies were merged in the general constituencies. Seats were reserved for the Scheduled Castes and the Scheduled Tribes in areas predominantly inhabited by them.

The Local Self-Government Act, 1953, again revised the composition and strength of the local boards. Under this Act, Government could nominate not more than two members. The principle of nomination was retained with a view to secure representation to the unrepresented interests. Government could reserve seats for certain communities like the Scheduled Castes and the Scheduled Tribes. But reservation was in proportion to their population strength in the sub-division concerned. Government could appoint officers as supernumerary members to render expert advice but they would have no right to vote. If within the time prescribed by Government, the electorate failed to elect the required number of members even at the second election, the board was authorised to coopt persons to fill up vacancies. Here was an invidious discrimination. In the case of municipal boards, the vacancies were filled up by nomination. The reasons for this discrimination are not clear and there was therefore no justification for it.

The principle of nomination contained in the Local Self-Government Bill, 1952, was the subject of controversy in the legislature. The Minister-in-charge of the Bill defended it on the ground that Assam was a land of minorities who required protec-

tion; that there were certain areas which were sparsely populated and therefore ought to be represented.

Critics however pointed out that the problem of minorities could only be solved not by nomination but by the assimilation of the minorities with the majority. In public affairs there can be only one kind of minority, political minority. The principle of nomination on the otherhand developed the spirit of servility in the minorities and thereby thwarted the development of common consciousness for a common end. Again, the principle of nomination was utilised for political purposes These arguments were of no avail.

Anchalik Panchayats : We shall now consider the composition of the various bodies constituted under the Panchayat Act, 1959. The Mehta Committee suggested that in every National Extension Service Bloc there should be a Panchayat Samiti consisting of about twenty members elected indirectly by the village panchayats within the bloc. The members of the samiti might coopt two women, one member to represent the Scheduled Caste and another the Scheduled Tribe provided their population was not less than five percent of the total in the area. In addition the samiti might also coopt two residents of the locality who had experience in administration, public life or rural development. The municipalities which lie as enclaves within the jurisdiction of the bloc should be entitled to elect from amongst their own members one person to serve as a member of the samiti. Further, ten percent of the elective seats might be filled up by the representatives of the Directors of the Cooperative Societies within the bloc. These recommendations were embodied in the Assam Panchayat Act with certain modifications. The composition of the Anchalik Panchayat varied from time to time. Further, it consisted of different categories of members elected, ex-officio, coopted and nominated.

As regards the elected members the Panchayat Act, 1959, laid down that every gaon sabha should be represented by at least one representative elected directly on the Anchalik Panchayat, irrespective of its population strength. The representative need not necessarily be a member of the panchayat concerned. This arrangement was thought to be useful in effecting necessary personal adjustments and in promoting harmonious working among the leaders of the village than the suggestion that the

president of the gaon sabha should be ex-officio member of the Anchalik Panchayat.

The principle of direct election of certain members of the Anchalik Panchayat does not seem to have worked satisfactorily. The Santanam Committee recommended the election of members by an electoral college. Influenced by this recommendation the direct election of members of the Anchalik Panchayat was abolished in 1964. In its place, an electoral college consisting of all the members of the Gaon Panchayats falling within the jurisdiction of the Anchalik Panchayat is established. This college should elect one-third of the total number of presidents of the Gaon Panchayats or at least three, whichever is greater from among the members of the Gaon Sabha.

The Panchayat Act, 1959, prohibited the President of the gaon panchayat from being a member of the Anchalik Panchayat. If a president of a gaon panchayat was elected to the anchalik panchayat, he automatically ceased to be the president of the gaon panchayat. In 1962, the person so elected was given fifteen days time "to exercise his option of remaining either as president or vice-president as the case might be of the gaon panchayat or alternatively as a member of the anchalik panchayat." If he did not exercise his option within the time limit prescribed by the Act, he automatically ceased to be the president of the gaon panchayat. The Study Team on Panchayat Raj, Assam, 1963, recommended that the president of the gaon panchayat should be the ex-officio member of the anchalik panchayat. Accordingly, by an executive order the presidents of the gaon panchayats were requested to attend the meetings of the Anchalik Panchayats. In 1964, the Act was amended and the presidents of gaon panchayats situated within the jurisdiction of the anchalik panchayat were made ex-officio members of the Anchalik Panchayat. One of the reasons adduced for making them ex-officio members of the anchalik panchayat was that the members chosen by the gaon sabha did not evince any interest in the work of the gaon panchayat.

Again the Panchayat Act, 1959, did not provide for the co-option of women. But Act VI of 1960 made it obligatory on the part of the anchalik panchayat to coopt one woman member from within its area if no woman was elected to the anchalik panchayat. The Panchayat (Amendment) Act, 1964 increased the number of

women to be coopted to two if no woman was elected and one woman if one was already elected.

The Panchayat Act, 1959, provided that one representative should be elected by chairmen of the cooperative societies from amongst themselves, falling within the area of the anchalik panchayat. At first, a person who was not a chairman of a cooperative society could be elected. But in 1962 it was laid down that he should be a chairman of a cooperative society situated within the jurisdiction at the time of his election.

The Panchayat Act of 1959 did not provide for the nomination of members but in 1964 the Act was amended and the Government has been authorised to nominate such number of members as may be necessary to represent the unrepresented areas within the jurisdiction of an anchalik panchayat.

Again, if no member belonging to the Scheduled Castes or the Scheduled Tribes was elected, the anchalik panchayat should coopt one member from each community provided its strength is not less than five percent of the total strength of the voters in the area concerned.

In addition, Members of the Legislative Assembly representing the area and such officers as may be nominated by Government are ex-officio members. The ex-officio members have no right to vote nor have they the right to become presidents of the anchalik panchayat. M.L.A.s who are not ex-officio members have the same rights and obligations of an ordinary member of the panchayat including the right to vote and the right to be elected as chairman.

The Mehta Committee also suggested that each district should have a zilla parishad consisting of presidents of the panchayat samities, all the members of the State Legislature, Members of Parliament representing the district in the respective legislatures and the district officers of the departments of Medical, Public Health, Agriculture, Veterinary, Engineering, Education and Public Works. The recommendation was embodied in the Assam Panchayat Act, 1959, with slight modifications. Instead of a zilla parishad in each district the Act provided for the establishment of a mohkuma parishad in each sub-division. Otherwise, the recommendations of the committee were accepted by the legislature.

Under the Panchayat Act, 1959, the mohkuma parishad

consisted of four categories of members, presidents of all anchalik panchayats within its jurisdiction, all M.Ps., M.L.A.s representing the area of the parishad and chairmen of municipal boards, town committees and school boards falling within the sub-division and finally such officers appointed by Government. If no member of the Scheduled Tribes and of the Scheduled Castes was elected, one member from each of these communities should be coopted, provided the population of the community concerned is not less than five percent of the total population of the area. The chairmen of the local authorities were ex-officio members and hence had no right to vote.

Originally, the Mohkuma Parishad had no right to coopt women if women were not elected as members. But Act VI of 1961 authorised it to coopt one woman. In 1962, the number of women to be coopted was increased to two if no woman was elected and one woman if only one was elected. In 1964, Deputy Commissioners were included as members. They are not ex-officio members and therefore they have a right to aspire the presidentship of the Parishad. So at present, the Mohkuma Parishad consists of presidents of the Anchalik Panchayats, Deputy Commissioner, M.L A.s, M.P.s, chairman of the municipal boards, town committees and of the Cooperative Central Bank. The chairmen of the school boards were eliminated. The chairmen of the municipal boards, town committees and Cooperative Central Bank are ex-officio members and therefore have no right to vote or the right to office. Here is an anomaly. The M.L.A.s are ex-officio members of the anchalik panchayats and therefore have neither the right to vote nor the privilege to become chairmen of the panchayats. But they have the right to vote and the right to contest the chairmanship of the parishad. The reasons for this invidious distinction are not clear.

The status of the M.L.A.s and M.P.s in the zilla parishad varied from place to place. In Orissa, they are not regular members of the zilla parishad though they should be informed of its meetings and have the right to take part in its proceedings without any right to vote. It follows that they cannot hold any office in the zilla parishad. In Madras and Andhra, they are regular members of the District Development Council. In Maharastra, they are kept out of the parishad. In Assam, not only they are regular members, they can also occupy the office

of presidentship. In general, however, the trend is against their being members of the zilla parishad. The Government of India also desired that they should not be members of the parishad. The Study Team on Panchayat Raj, Assam, however, recommended that they might be ex-officio members of the Mohkuma Parishad.

The inclusion of the Deputy Commissioner as a member of the Mohkuma Parishad has been objected to on grounds of political philosophy. But practical considerations induced the Government to accept the realities of the situation. It has been recognised everywhere that effective coordination of the work of different departmental officers can be maintained at official level, if the Deputy Commissioner is a member of the zilla parishad. Therefore, steps have been taken in all States to associate the District Collector with the work of the zilla parishads. In Orissa, the Collector is not only a member of the zilla parishad but also the chairman of the committee on Administration and Co-ordination, of which all the district level officers are members. In Madras, the District Collector is the chairman of the District Development Council. In Maharastra, the Collector is not associated with the zilla parishad except that he can intervene in an emergency. In Andhra, he is a full member of the zilla parishad. The non-association of the Deputy Commissioner was largely responsible for the lack of coordination at the district level in Assam. So the Study Team recommended that he should be a member of the Mohkuma Parishad. The legislature accepted the recommendation.

Panchayats : Under the Village Choukidari Act, 1870, which was in force in three districts, Cachar, Goalpara and Sylhet, the panchayat could consist of not less than three and not more than five residents of the village concerned. The members could be partly elected and partly nominated or wholly nominated. Under extra-ordinary circumstances, the magistrate nominated only one person to the panchayat. In practice, all the members of the panchayat were appointed by the magistrate.

Under the Bengal Municipal Act, 1876, the union panchayat could consist of three or five respectable persons residing or carrying on business in or near the union. The magistrate could appoint non-residents also as members of the Union.

The Local Self-Government Bill, 1914, contemplated that

each village panchayat could consist of not more than nine members. Under exceptional circumstances, it could consist of only one person. Though it was pointed out that no village authority should consist of only one member Government said that in some backward areas it would not be possible to find suitable men for appointment as members. In such places, it would be better to entrust the management of village affairs to one man. But one man village panchayat would not be universal. It would be resorted to in exceptional circumstances.

Under the Rural Self-Government Act, 1926, the village authority consisted of such number of members not exceeding nine. The Rural Panchayat Act, 1948, brought into being two types of panchayats, Rural Panchayats and Primary Panchayats. The primary panchayat should consist of all the resident adults of the area possessing the prescribed qualification. The executive committee elected by the primary panchayat would consist of not more than fifteen members. The Rural Panchayat would consist of the members elected by the primary panchayat at the rate of one representative for every 200 members. Government could appoint any officer as ex-officio member. The ex-officio members had the right to attend and participate in the meetings but had no right to vote.

In 1959, the composition of panchayats under went some change. The Mehta Committee suggested that panchayats should be sufficiently large so that different sections and luterests in the population could be represented. The Committee also suggested that women not more than two in number and one member of the Scheduled Castes and another from the Scheduled Tribes might be coopted if they were not already represented.

These recommendations are contained in the Panchayat Act, 1959. The Gaon Sabha consists of all adults in the area whose names are included in the electoral roll.

As regards gaon panchayat, the Act of 1959, laid down that it should consist of not less than eleven and not more than fifteen members. The gaon sabha with a population of more than 2,500 should have an additional member for every 500 persons but the maximum strength of a panchayat should not exceed fifteen.

In 1964, the maximum and the minimum strength was abolished. The strength of the panchayat was fixed at nine.

But every gaon sabha with a population of more than 2500 is entitled to one additional member for the gaon panchayat for every 500 persons subject to a maximum of eleven.

Under the Act of 1959, gaon panchayat had power to coopt only one woman if no woman was elected. In 1964, it was laid down that two women members should be coopted if no woman was elected and one if only one woman was elected.

Again, under the Act of 1959, the representatives elected to the Anchalik Panchayat by a gaon sabha were not ex-officio members of the gaon panchayat concerned. In 1961 they were made ex-officio members and in 1964 this provision was deleted.

The Act of 1959, provided for the cooption of one member from the Scheduled Castes and another from the Scheduled Tribes if no person belonging to these communities was elected provided their population is not less than five per cent of the total voting strength of the area concerned. This provision shall be in force so long as the communities continue to enjoy this special representation under the Constitution.

The coopted members shall be in addition to the maximum prescribed by the Act. Ultimately, some panchayats may have fifteen members, the strength prescribed by the Act of 1959.

Village Benches : Under the Rural Self-Government Act, 1926, Government could by notification appoint three or more residents of the area who might or might not be members of the village panchayat to constitute the village bench for the trial of criminal offences. Government could appoint three or more residents of the area who might or might not be members of the village authority to be the village court, for the trial of civil cases.

In 1948, the village benches and the village courts were abolished and in their place a single organization was brought into existence—the Panchayat Adalat. The Adalat was to consist of five persons not necessarily members of the rural panchayat. Under the Panchayat of 1959, the Panchayat Adalat should consist of five persons selected by the District Judge from a panel of members consisting of two representatives selected by each gaon sabha within the jurisdiction of the Panchayat Adalat. Under the previous Act, the members of the Adalat were elected by the panchayat concerned but under the existing Act, election was considered undesirable and the district judge

has been authorised to nominate persons from a panel of names selected by the gaon sabha.

Critical Review : A critical review of the composition of the local boards reveals that it was unsatisfactory for a major part of the period commencing from 1871 to 1960. For a long time, the planters dominated the boards on the ground that they made a substantial contribution to the prosperity of the Province. "No measure could be more fatal to the prosperity of the province" wrote Elliot in 1882, "than any which would tend to alienate the powerful and energetic tea interest and to make its representatives unwilling to continue that assistance which they have hitherto so freely rendered with great benefit to themselves and the State. It is true that numerically they are far outnumbered by the natives of the province but they control a labouring population of no small magnitude and they own vast tracts of land." Elliot admitted that planters were more interested in the improvement of communications and in the colonization of the province. They were not interested in education. But he argued that with the extension of roads, railways, and steamer service, the reclamation of waste lands and the consequent increase of wealth and population, education would automatically develop. Therefore, Elliot said that in all districts where tea interest was important half of the non-official members of the local board should be the representatives of the tea planters. He also suggested that this proportion should be observed in Cachar, Lakhimpur, Sibsagar, Darrang and Nowgong.[14]

In the early years of the present century there was an agitation for the reduction of the representation of planters. During the discussions on the Local Self-Government Bill, 1914, attempts were made to curtail their over representation. But their representatives in the Assam Legislative Council assisted by bureaucracy which consisted mostly of Europeans found a community of interest in defending the preponderance of the planters. They

[14] No. 1784. G. Shillong 2-11-1882. See also Letter No. 4178, Shillong 10-8-1883. In 1883 Elliot promised to increase the representation of planters on any board if necessary but maintained that the Indian element must be in a large majority. See also letter No. 2823 Shillong 25-6-1883 to Mr. E. G. Foley.

contended that the capital invested by the planters in the tea industry was £ 16 millions, that the area covered by it was 7,65,298 acres and that the labour force employed in it was 5,70,000.[15] It was also argued that the representatives of the planters represented a large number of people who were not voters. On the average every planter member of a local board represented 9,000 persons, £ 300,000 capital and 6,000 acres of cultivated land.[16] Finally, it was argued that the tea industry was responsible for the development of communications in the province.[17]

The Indian members of the Legislative Council however, contended that the basis of representation must be relevant. Not merely capital invested but also population, land revenue or local rates paid or both must be taken as the basis or representation.[18] Government, however, pointed out certain difficulties in adopting payment of rates as the basis. First, there was no general register of the revenue paying estates, showing in detail as to who paid land revenue. In the Goalpara district, where estates existed it was impossible to find out which of the tenure holders paid revenue. Again, there were several persons like the subtenants who did not pay any revenue and yet their interests had to be protected. Above all, the importance of any community did not necessarily depend on the payment of rates.[19] There is an element of truth in this argument but not the whole of it The Government spokesman entirely overlooked the principle of population. Nor did he remember the fact that local boards were established mainly to provide opportunities to the children of the soil to acquire political experience. That aim was defeated by giving a preponderant voice to the planters. The planters were not in need of political instruction because they had enough of it in their own country.

The Indian members of the Legislative Council also pointed out that the planters were interested only in one thing—the construction and maintenance of communications. They were not interested in education or public health. Further, the success

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[15] ALCP 12-1-1928 Speech of Mr. Miller.

[16] Ibid. 15-8-1915 Speech of Mr. Playfair.

[17] Ibid. 12-1-1928 Speech of Mr. Miller.

[18] Ibid. 15-8-1915. Speech of Mr. A. K. Chanda.

[19] Ibid. Speech of Mr. W. W. Kennedy.

of local self-government depended upon local initiative and local knowledge. But planters had no such knowledge. They did not understand the local feelings and aspirations. They lived in a world of their own and did not mix with the common man.[20]

Again, the argument that Tea Industry was responsible for the prosperity of the province was not wholly valid. There were other factors which were equally, if not more, responsible for promoting its prosperity. As a matter of fact the tea industry was primarily concerned with the promotion of its own interests and incidentally with those of the province. Further, there was no relationship between the contribution made by the planters and their representation on the local boards.[21] The planters were over represented on the boards of Silchar, Hailakandi, North Sylhet, Karimganj, South Sylhet, Habiganj, Gauhati, Tezpur and Mangaldai.

The argument that the planters represented the labour population was equally untenable because of the great social and economic disparities between the two classes of persons. Further, they were not permanent residents of the province and therefore, they had no roots in it.

The argument that the planters were the representatives of the people living in the tea garden areas was as sound as the the argument that the South American slave owners were the natural protectors of the slaves under their control.

[20] Ibid. Speech of Rai Ghanasyam Barua Bahadur.

[21] In 1912, the local rates paid by the planters wsa Rs. 92,669 and their representation on all local boards was 82. Whereas the local rates paid by all others was Rs. 5,39,401 but their representtation was only 57.

Name of the Board	Local Rates paid by		Number of seats alloted	
	Planters	Others	Planters	Others
	Rs.	Rs.		
1. Silchar ...	13,646	20,920	7	4
2. Hailakandi ...	4,136	8,490	4	2
3. Karimganj ...	4,167	44 370	6	4
4. North Sylhet ...	1,729	53,256	4	4
5. South Sylhet ...	5,786	36,946	6	4
6. Habibganj	2,377	59,131	4	5
7. Gauhati ...	907	87,872	2	5

Above all, planters happened to be the most effective allies of the Deputy Commissioner and through them he was able to impose his will on the Indian members of the board.[22]

All these arguments were of no avail The legislative council dominated by the representatives of planters and their ally the bureaucracy brushed them aside and perpetuated the old injustice.

So there was agitation both in the Legislative Council and in the public for the reduction of representation of planters.[23] It was in 1950, that their proponderance could be eliminated.

Communal Representation : It may be of interest to note that communal representation was introduced as early as 1883 in Sibsagar. But there was no demand for it anywhere in Assam. It was in 1912 that Muslims demanded it. Earle discouraged the move.[24] In 1913 the demand was again made. The circumstances in which it was made were as follows. In that year, Government informed the Gauhati municipal board that its strength would be increased to 15 from 9 and that ten of them would be elected, the remaining five being

8.	Tezpur ...	6,441	26,726	6	4
9.	Mangaldai ...	2,602	23,734	6	2
10.	Nowgong ...	1,741	34,561	5	4
11.	Sibsagar ...	9,293	36,961	6	4
12.	Jorhat ..	10,142	37,663	6	4
13.	Golaghat ...	6,515	23,068	6	4
14.	Dibrugarh ...	21,527	33,067	8	5
15.	North Lakhimpur	1,980	12,396	6	2
	Total Rs.	92,669	Rs. 5,39,401	82	57

[22] Ibid. 12-1-1918. Speech of Muhammad Saadullah. Speech of Barkat Mazumdar.

[23] A. L. A. P. 1938. Vol. 2 Speech of Rev. J. J. Nichols Roy. It was, however, pointed out that some definite principle was adopted in 1920 when seats were allotted among the different communities. For instance, in Dibrugarh the contribution made by the planters by way of rates was Rs. 51,601 and Rs. 60,967 by others. If payment of rate was taken as the basis of representation, the planters had to get 14 seats in a board of 30 and 13 in a board of 28. If population was the criterion, they were entitled to 15 seats in a board of 30 because the population in the tea garden area was 2,76,360 and it was 2,95,578 in other places. That is, nearly half of the population in Dibrugarh local board area lived in tea gardens.

[24] A. L. C. P. Vol I. 1912 p. 38.

nominated by Government. Mahammad Saadulla on behalf of the Anjuman Sahib Islamia, Gauhati, protested against the proposal on the ground that it would affect Muslim interests. So he demanded separate representation for them. The vice-chairman of the municipal board, however, pointed out that Muslim interests never suffered and that the board always contained a representative of the Muslim community. The Government did not therefore take serious note of Saadulla's protest. Saadulla raised the issue again in 1914 during the budget discussion.[25] The Government, however, assured the member that adequate attention would be given to Muslim representation while framing the local self-government and municipal bills and the rules to be issued thereunder.[26] In 1920, communal representation was introduced into the local authorities for the first time in their history by backdoor, by simply adopting the electoral roll of the Legislative Council as the electoral roll for local authorities. The electoral roll of the Legislative Council recognised communal representation.[27] Although communal representation was introduced it was permissible. That is, Muslims would not get separate representation automatically on the municipal boards. It would be introduced only when there was a strong demand for it.[28] But communal representation was abolished in 1950. The arguments in favour of and against communal representation are so obvious to students of Indian constitutional history that they need not be repeated here. But it was a regretable feature of the composition of the local authorities in Assam. Instead of communal representation, reservation of seats for the minority communities would have been preferable as it would have served the purpose more effectively.

Nomination of Members : The principle of nomination existed throughout the period under review and it existed in all the local authorities both urban and rural. Although, it

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[25] Ibid. 2-4-1914. Speech of Md. Saadulla.

[26] Ibid. Speech of Mr. A. W. Botham.

See also L. S. G.-A October 1914. Note by Lt. Col. Gurdon.

[27] A. L. C. P. 1920. Vol. I p. 202. Krishna Sundar Das tabled a motion condemning communal representation.

[28] Ibid. Vol. 3, p. 229. Speech of Mr. W. J. Reid.

was abolished in the rural boards it still exists in the municipal boards. Although all the members of the local boards and members of the municipal boards were nominated by Government, at first, it was done after some kind of informal consultation with the local people and the person elected by the assembled people were nominated by Government.[29] In some cases, nomination were made by a formal resolution of the board concerned although there was no warrant for this procedure, as the Deputy Commissioner was the proper authority to exercise this power. He could consult individual members of the board before nominating any person but there was no need to place the matter before the board for its consent. The practice of consulting the board in regard to nomination was not ony irregular but it sometimes led to unpleasantness and inconvenience. So the Deputy Commissioners were requested to discontinue the practice.[30] Though formal consultation of the board was discontinued formal consultation with the people continued. As a consequence, the principle of nomination was not so much detested. The point that we have to bear in mind is this that the persons selected for appointment as members by Government were far superior to those elected by the people for obvious reasons. Before 1920, nominations were made by the Chief Commissioner who invariably made no effort to secure the services of better type of men. He was not guided by political considerations in making nominations. After 1920, this power was exercised by the Minister for Local Self-Government. Necessarily political considerations came in. For, the Legislative Council consisted of members who were also chairmen of local authorities. Very often they were the members of the party in power. To retain their sympathy and support nominations were made according to their wishes.

What types of persons were nominated after 1920? A perusal of the relevant records conclusively proves that the

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[29] No. 264-68. Home—A, August 1964. The Deputy Commissioner K. J. Hills nominated Anup Chand to represent the Marwari community without consulting public opinion. Public opinion favoured Munshi Belayat Ali as a municipal commissioner. Government accepted the candidate suggested by the public and appointed him as a commissioner of the Shillong Station Committee.

[30] Circular Letter No. 30. Home, Shillong 19-7-1888

Ministry did not use this power according to the intentions of the framers of the Act. Instead of nominating representatives of the minority communities and of the communities not already represented, the party in power nominated persons who ought not to have been nominated Persons belonging to the minority communities already represented[31] persons defeated at the polls [32] and M.L.C.s and M.L.A.s were nominated. Sometimes, this power was exercised with a view to reduce a political majority into a political minority.[33] Thus, the principle of nomination became an instrument of abuse.

Apart from the fact that it facilitated the abuse of power, it was not held in popular esteem because it was often synonymous with favouritism. Individuals entrusted with this power were often swayed by personal prejudices. Further, the system of nomination encouraged the spirit of servility among the appli-

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[31] A. L. A. P. Vol. 2, p. 59. Speech of Omeo Kumar Das.

[32] Ibid. p. 62. Speech of Mr. Sarweswar Barua. In North Lakhimpur, an Ahom, an influential mouzadar and a Rai Sahib who was defeated at polls was nominated to the North Lakhimpur Board although the Ahom community was already represented on the board.

Ibid. p. 65. Speech of Beliram Das, One Nagendranath Barua a defeated candidate was nominated to the Gauhati Local Board. Another defeated candidate was nominated to the Barpeta Local Board.

The Saadulla Ministry was responsible for the nomination of 19 persons who were defeated at the local board election.

Izid. Speech of Moulvi Jaharuddin Ahmed, p. 68, Mr. Ahmed. while defending the nomination of defeated candidates to the local boards, said that the defeated candidate was the second best popular man.

[33] Ibid. 1938. Vol. 2. The Saadulla Ministry nominated 24 members of the legislature to the various local authorities.

Ibid. p. 63. Speech of Rabidnranath Aditya. Three members of the Assam Legislative Assembly were nominated to the Karimganj local board. One of the three was not even a resident voter of the sub-division. Two M. L. As. were nominated to the Sunamganj Local Board. One was the uncle of the other. To the North Sylhet Local Board, three Muslims were nominated although the Moslem community was already represented.

Of the 24 members nominated by the Saadulla Ministry 16 were those who were defeated at the polls.

Ibid. p. 65. Speech of Mr. Kameswar Das. Another M. L. A. was nominated to the Barpeta Local Board.

cants for the nominated seats. This was inimical to the development of independence in talk, in thought and in deed. This does not mean that the system of nomination is always bad. If persons entrusted with this responsibility are men of good intent and good judgment, the services of the best type of persons may be secured. In other words, those who are entrusted with this responsibility must be guided by definite principles.

There is also another objection to the principle of nomination. It runs counter to the tenets of democracy. It is admitted that democratic process sometimes puts in office dunderheads and nincompoops. But there is no other alternative to election in a country wedded to democratic principles.

The principle of nomination has been defended on the ground that sometimes the electorate itself may fail to elect the required number of members even at a second election. Under these circumstances, should not the Government possess this power ? The answer to this question is contained in the Assam Panchayat Act, 1959, wherein the local authority concerned is authorised to coopt the required number of members. The principle of cooption may be used to secure representation of the minorities. It is admitted that the local authorities may abuse this power by coopting party members. But it is lesser than nomination.

All these facts induced one of the members of the Legislative Assembly to introduce a bill suggesting the abolition of nominations. Government accepted it.[35]

Official Element : Another undesirable feature of the composition of the local boards was the preponderance of Government officials. In this respect the municipal boards and panchayats were fortunate. But not the local boards. As early

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[34] Ibdi. p. 34. Speech of Omeo Kumar Das. In Tezpur, all the elective seats were capturing by Congress. In order to prevent the Congress from capturing the chairmanship of the local board, a mouzadar who was defeated at the polls and his supporters were nominated With the help of the planter members he became the chairman of the board.

[35] A. L. A. P. 1938. Vol. 2, p. 205. Bill introduced by Mr. Siddhinath Sarma, Ibid ; Speech of Mr. Clayton. Mr. Clayton defended the principle of nomination on familiar grounds ; Ibid. p. 209. Speech of Rev. J. J. Nichols Roy.

as 1879, an enlightened Deputy Commissioner opposed the appointment of officers of the provincial government as members of the local boards.[36] The official members and the representatives of the planters constituted the Chinese wall in the local boards and reduced the Indian members to the position of non-entities.[37] This state of affairs continued till 1926 when the official element was removed. In 1964, however the, Deputy Commissioner was included as a member of the Mohkuma Parishad. Theoretically speaking, he ought not to be a member of the Mohkuma Parishad. Pragmatism, however, indicates that he should be there for obvious reasons. His cooperation is necessary for the execution of development works. As long as he was not there, there was some kind of non-cooperation between the officials and non-officials. Further, the Mohkuma Parishad is only a deliberative and not an executive body. Therefore, there was no harm in including him as a member of the parishad.

Let us now consider the composition of the gaon sabha. The gaon sabha consists of all adults. This is not a novel feature of the gaon sabha. The canton of Glarus and the half cantons of Appenzell and Unterwalden in Switzerland have their historic Landsgemeinde or the Legislative Assembly of all citizens. Many of the smaller communes in the same country entrust all communal affairs to an assembly of all citizens. The Parish Meeting in England—there are about 5650 Parish Meetings—consists of the local government electors in the Parish. The electors meet once or twice a year to make decisions and elect their chairman and to administer parochial charities.

[36] Letter No. 5559, Sylhet 16-11-1881. Mr. Luttman Johnson, Deputy Commissioner, Sylhet wrote as follows. "When the Assam Local Rates Regulation was on the carpet, I made a great fight to exclude Government servants from the (District) Committee. Government servants have rarely any local knowledge. It is absurd to place them on such committees. However, I lost the fight. There is no need for the preponderance of the official element. This does not mean that there is no need for official guidance. All that is meant is that this guidance could have come from outside than from inside."

[37] Annual Report Local Boards. 1884-85. In 1884-85, of the 37 members of the Dibrugarh Local Board, officials and planters constituted 26. Similarly, they dominated the boards of North Lakhimpur, Sibsagar, Jorhat, Golaghat, Nowgong, Tezpur,

Again, the boroughs and the Urban District Councils in the same country must call for public meeting of all electors and refer all private bills to them for their approval. The informal panchayats established in the old Madras Province contained all the adults of th evillage. In Punjab and Uttar Pradesh the Panchayat is required to call meetings of the villages body at least twice a year to inform them about its achivement and its programme and to present to it a statement of its financial position. In Uttar Pradesh, the budget must be approved by the village body. In the former Saurastra any person in the village could attend the Panchayat meetings. The principle of consultation between the Panchayat and the village body is a commendable one. It is in accordance with the tradition of western democracy. The practice of the village meetings may bring the people and their representatives closer together and may promote an understanding between the two. Yet, it must be said that the actual working of this institution does not encourage us to adopt it. History tells us that whenever this experiment was tried it met with failure. Let us take the Parish Meeting in England. It was valuable as a means of safeguarding the interest of the village when they were in any way threatened but as an organ of administration and for initiating schemes for the improvement of conditions in the village, it was of little practical value. When the meetings were held the number of those attending was ludicrously small. There was no means of checking the qualifications of those who attended the meetings ; there were instances of the meetings being packed by interested parties possibly by even people from a neighbouring village ; well considered schemes made by experts and accepted by responsible councils were rejected by the electors. When proposals of a complicated nature were placed before the people, an intelligent vote upon them was well nigh impossible. Sometimes they accepted the operative part of the bill and rejected the part relating to the levy of taxes. Even in Switzerland where democracy works as methodically as the Swiss watches and where there is long tradition of democratic government, the days of direct democracy are numbered. Now the Assam Panchayat Act, 1959, wants to swim against the current of proved experience by providing direct democracy in the villages. According to the Act, the members of the gaon sabha have a double

task to perform. They must meet at least twice a year and lay down and not merely approve the policies, approve certain actions of the executive and elect the members of the gaon panchayat. But the question is whether the adults of the gaon sabha are also adults politically ? Can we expect them to exercise these functions with discretion ? Are they capable or reviewing the progress of the works of the preceding year, particularly works of technical character and of drawing up plans for the succeeding year? All these functions require deliberation and discussion which cannot be carried on in an atmosphere of a crowded assembly. Therefore, this provision in the Act should be scrapped and the representative institutions should be brought into being. They are the normal means of democratic government in an age of technology. There is no alternative to that.

Let us consider the composition of anchalik panchayat and of mohkuma parishad. The inclusion of M.L.As in anchalik panchayat and M.L.As and M.Ps in mohkuma parishad and officers of government in these two bodies as ex-officio members is a flagrantviolation of the principles of democracy. One of the basic principle of all organizations from the primary to the national is that they must be fully representative and self-contained. However, the funniest thing is that the ex-officio members have no right to vote. It did not occur to the framers of the Act, that no person would take the trouble of attending the meetings of these bodies merely for the pleasure or rendering advice. Further, why M.L.As and M.Ps should be members of these bodies is not clear. These two classes of persons, particularly M.Ps have enough work to do and may not evince keen interest in the work of the local bodies. As a matter of fact, some M.Ps have never attended even a single meeting of some of the mohkuma parishads. The presence of others was not felt. Practically they made no contribution to the deliberations of these bodies. But, of course, it must be said that some of the M.L.As have evinced keen interest in the proceedings for obvious reasons. Further, M.L.As and M.Ps have been elected on issues which are fundamentally different from those of the anchalik panchayat and of the mohkuma parishad and therefore, constitute an incongruous element in these bodies.

Again, the reservation of seats for the co-operative societies on the Anchalik Panchayats is not only inexplicable but also

objectionable. A co-operative society is a restricted association formed for an economic purpose. In the nature of things it is not open to all citizens in the block. The co-operatives may protect their interest by adult franchise and not by reservation of seats in a local body. Further, as citizens, the members of the co-operatives are already represented on the anchalik panchayat. And as members of the co-operative they secure representation for a second time which is a negation of democracy. No citizen has a right to double representation on any body. Thus, the composition of the anchalik panchayat and of the mohkuma parishad is not satisfactory.

But then the question arises whether the members of the mohkuma parishad should be elected directly or indirectly, by the primary panchayats. There are two views on this point. Some have argued that if local self-government is to be a reality there should be direct elections. We should not fight shy of direct elections as the Mehta Committee had done. There are others who argue that there should be direct elections for the primary units and not for the intermediate bodies and that the members of the intermediate bodies may be elected by the primary units. In support of the view it is said that the election of members of the anchalik panchayat by the gaon panchayats may establish an organic relationship between the two bodies, resulting in an intimate understanding and unity of purpose and in a better co-ordination of their activities. But the present writer opines that indirect election is fraught with grave consequences. Panchayat unions will be the only institutions in the State which will consist of members indirectly elected. The power vested in the Panchayat unions are powers of control and if these powers are to be exercised impartially and effectively the anchalik panchayat should not consist of representatives of the primary units. Above all, the right to vote provides opportunities for political education. It is true that elections are expensive. But the value of political education is greater than the expense involved.

CHAPTER X

MEMBERSHIP

Members of the local authorities are representatives. They are not delegates because they do not receive definite instructions from any quarter as to the line they should adopt on any particular issue. They need not speak and need not vote in accordance with the directions given to them by their constituencies. They are expected to use their discretion while considering issues placed before them.

The members ought to remember certain principles. They should not promote particular good at the expense of generel good. They should not try to satisfy the unreasonable demands of their constituencies. It may be true that a candidate might have made promises at the time of election. If promises are made, a member is under a moral obligation to carry them out. But the obligation is not an absolute one. The premises made by the candidates at the time of election are like manifestoes of the political parties. If a political party comes to power with a particular programme it means that the party has a mandate from the electorate to do a particular thing or things. The party is justified in carrying out the programme. But of course there is no absolute obligation on the part of the party to carry out the mandate. Similarly the representatives have freedom to use their judgment. If there is no change in the circumstances in which promises are made promises must be carried out. But if the circumstances alter a reconsideration of the position is imperative Here is a classic instance. For a long time, the Government of India stated that it would not use force for the elimination of the Portuguese from Goa. In 1961, there was a change in the international situation and the Government of India was compelled to use force. It must undoubtedly be not thought that the Government departed from its earlier promises but that it adopted a realistic attitude.

This does not mean that the members of the local authorities need not keep their promises. The principle is that they have an over-riding obligation to the community. It follows, that the

members are not delegates. If the constituencies do not like the way in which the member exercises his discretion and judgment, they must wait till the next general election and unseat him. They have no power to recall him to give him fresh instructions.

Further, every representative, to whichever party he may belong, represents all persons in his constituency. Therefore, he must help every one within his constituency whether they were his supporters in the last elections or the others who were on the otherside and doubtless voted against him.

What are the qualities which a member of a local authority should possess ? Every member must be able to study a bewildering variety of subjects so that he may be able to frame policies and programmes. He must be able to find out the information on all subject with which local administration is concerned in order to act upon them intelligently. A conscientious member must put to himself three questions constantly, if he is to discharge his functions effectively. What needs to be done ? What do people want ? What is the best way to do it ? Something must be done. It is possible to do them but people do not want them. For instance, the supply of protected water, without which communicable diseases cannot be controlled. It requires money which may involve taxation. Taxation is repugnant to the people. So they do not want water supply though it is an absolute necessity. Sometimes people want something although it is not an absolutely necessity. For instance, people may demand the construction of a compound wall around a graveyard. In relation to other needs, it is less urgent. So, under these circumstances, the members are expected to use their discretion in regard to these matters. Even before his election, the member would have had some ideas concerning the needs of the town or of the district. After his elections he should study the situation carefully and determine its needs. As a citizen and as an individual he should express his ideas and opinions and not become atomation who reacts only when the voters press the button.

There is another source from which a member receives ideas unsolicited, on what ought to be done by him. This is in the form of complaints, suggestions and ideas submitted by interests, groups and individual citizens. The, complaints and suggestions deserve the courteous and carefull attention of every member.

They are a valuable source for determining the needs of the areas.

There is another source from which members may receive information. It is the chief executive and his administrative staff. They are professionals and look at the local problems through professional eyes. The suggestions they offer may be fundamentally differtnt from those presented by the lay citizens.

After assimilating the information thus received or gathered the member must think of the action to be taken by the board to implement the plans. Not only that, he must also note whether a majority of the people are in favour of it or against it. In a democracy, the primary duty of the member is to give effect to the will of the majority of the citizens as far as practicable. This does not mean that he should always take the wishes of his constituency into consideration. But the members must be aware of the pressure groups which often represent only a small part of the whole community but are more vocal. As far as possible he must be guided by the general interest of the community as a whole rather by sectional or group interests.

Further, it is the duty of the members to educate the citizens in the programmes and policies of the local authority. If he considers that a proposal is good it his duty to take a stand on it and do all that he can to secure its adoption. It is true that a member may be able to insure his re-election by constantly keeping his ear to the ground and supporting only those things that are popular but this will not necessarily make him a good member. He must be responsive but not afraid of the electorate.

Term of office : The term of office of the members of the local authorities varied from time to time. It also varied from rural to urban boards. Under the Municipal Acts of 1850, 1864 and 1868, the term of office was one year. Under the Municipal Act, 1876, it was three years, one-third retiring every year. This did not apply to ex-officio members. They remained as members as long as they held their respective offices by virtue of which they became members. It must, however, be noted that though law laid down that members of the municipal boards should hold office for a term of three years in practice, in some places, a person once appointed as a member remained a member for an indefinite period. It was in 1893 that the three year rule was enforced. But of course any member who wished to continue in

office could be renominated any number of times. During the period, 1876 to 1956, the term of office of the members of the municipal board was three years. But under the Municipal Act, 1956, it was fixed at four years. The Act also authorised Government to extend the term of office of the sitting members for a period not exceeding one year at a time and such extensions shall not be for more than two years. The previous Acts did not provide for such extensions. The four year term under the existing Act commences from the date of the first meeting of the newly constituted board at which a quorum is present. Under the Act 1876, one third retired every year but under the present Act all come into office at one time and all go out at the same time.

The term of office of the members of the local boards was two years (under the Assam Local Rates Regulations, 1879), with indefinite eligibility. In 1882, it was increased to three years, one-third retiring every year. So the local boards like the municipal boards become permanent bodies. Under the Local Boards Act, 1915, the term of office was also three years, one-third retiring every year. Under the Act of 1926, the term was three years but it commenced from April 1. But the local boards were not permanent bodies. A person elected in a casual vacancy held office for the remainder of the term. Under the Act of 1953, the term of office was four years commencing from April 1, following the quadrennial election and ending on March 31. A person elected to fill a casual vacancy held office for the remainder of the term of the member whom he replaced. The four year term included any period which would elapse between April 1, and the date of the meeting of the newly elected board. The term of office of the supernumerary members was also four years but Government could terminate it at any time.

Under the Assam Panchayat Act, 1959, the term of office of the members of mohkuma parishad and anchalik panchayat is three years. A chairman of a co-operative society elected as a member of an anchalik panchayat remains as its member for the full term of three years even though he might have ceased to be its chairman. The term of office may be extended by such period but not exceeding one year.

As regards panchayats, the term of office was always three years though there was a slight variation at times. Under the Village Choukidari Act, 1871, it was three years but no member

of the panchayat after the expiry of the term of office was to be reappointed without his consent. He could be reappointed without his consent after a lapse of three years. Under the Local Boards Act, 1915 and the Panchayat Act 1926, 1948 and 1959, the term of office was three years. It may be extended by any period but not exceeding one year at a time. The term of office of the panchayati adalat is also three years but no one should hold office more than two consecutive terms.

From the above it is clear that members of the municipal boards hold office for four years, all others three years. The reasons for this discrimination are not clear. But the question is whether three year term is the most suitable one. The present writer considers that a five years term will enable members of the local authorities to prepare and execute a programme before laying down office. An even more important reason is the need to avoid the holding of too many elections in quick succession. A longer term of office, above all, will enable the Government to arrange elections at one and the same time, for all representative institutions.

Qualifications and disqualifications : Local Acts prescribed the qualifications and disqualifications of the members of the local authorities. They varied from time to time and also from urban to rural boards. However, there are certain general requirements which the members are expected to satisfy.

First, no person can be a member of a local authority unless he is in some way connected with the locality. In other words, he must be a resident of the local authority. Under the Municipal Acts of 1850, 1864, and 1868, the members of the municipal boards were to be residents of the locality. The Municipal Act, 1876, did not explicitly say that the members must be residents of the locality as the Act of 1884 did. But the municipal Acts of 1923 and 1956 and all other local Acts are silent on this point.

Second, all the Local Acts excepting the Panchayat Acts of 1926, 1948 and 1956 insisted on the possession of certain amount of property, payment of certain amount as tax, in receipt of certain amount as salary or pension. Under the Municipal Act, 1884, Government pensioners drawing a pension of Rs. 40 per month and traders paying income tax of Rs. 4 per month were entitled to be members of the municipal board. At present, these qualifications are not insisted on.

Third, till 1928, only males were entitled to be members. The fair sex was excluded.

Fourth, persons convicted by criminal courts involving a punishment of imprisonment for a period of six months or persons who have been convicted by a criminal court to furnish security for good behaviour under the Code of Criminal Procedure, persons dismissed from Government service, persons debarred from practising law were not entitled to be members.

Fifth, government servants other than ministerial officers and servants of the local authorities were prohibited from being members of local authorities.

Sixth, lunatics, uncertified bankrupts, undischarged insolvants were at all times excluded from the membership of the local authority.

Seventh, members who did not pay their dues to the local authority within three months from the date of receipt of the demand notice automatically ceased to be members. This disqualification was introduced in 1956 and was confined to members of the municipal boards. It was in 1964, that it was extended to the members of the gaon panchayats, anchalik panchayats and mohkuma parishads. Even those who defaulted in the payment of loans taken from the Co-operative Societies are excluded from membership.

Eighth, perior to 1924, political convicts could not be members of the municipal boards although they could be members of the local boards. The Legislative Council recommended to the Government the removal of this invidious distinction and it was accordingly done.

Ninth, since 1876, members of the municipal boards are prohibited from interesting themselves in a subsisting contract with the local authority. If any member evinced interest in any contract with the local authority, he automatically ceased to be a member. The members of the local boards were however, not subject to this disqualification. It was in 1915, that this limitation was imposed on them. But shareholders or members of an incorporated on registered company were not deemed interested in any contract entered into between the company and the board.

Tenth, those who resorted to corrupt practices in the previous elections cannot be members of a local authority.

Eleventh, persons who had been removed from membership for misconduct could not become members without the consent of Government.

Twelfth, one must have attained twenty one years of age at the time of filing his nomination paper.

Thirteenth, a member of the panchayati adalat should not be president or vice-president of a gáon panchayat or of an anchalik panchayat. He should not be a member of the state legislature or of parliament. He must not be less than 35 years of age. He must not be legal a practitioner or a pleader's clerk or mukhtiar's clerk or writer or extra writer in the office of the sub-registrar or Deputy Collector.

Fourteenth, sometimes literacy qulaification was insisted on. For instance, Elliot suggested in 1882, that the members ought to be able to read and write at least the vernacular of the region if not English. The rules issued by Government required that the candidate must be able to read and write English, Bengali or Assamese. At present literacy qualification is not insisted on.

Fifteenth, for sometime gaonburas and mandals alone could become members of the local boards.

It may be noted that these qualifications and disqualifications were not brought into existence at one time. They evolved themselves over a number of years as a result of discussion and criticism between the district officers and Government. At present the qualifications prescribed are simple. A member must have attained the age of twenty one. He must be a registered voter ; he must not suffer from any of the disqualifications namely, lunacy, bankruptcy, non-payment of dues to the local authority concerned or loans taken from cooperative societies, conviction for a criminal offence, service in government or local authority and interest in any subsisting contract with the local authority.

The qualifications prescribed for the members of local auhorities were of the kind prescribed for the members of any representative institution. The exclusion, for instance, of persons convicted for serious offences such as fraud, or murder, undischarged bankrupts or persons of unsound mind is to be expected in any kind of public office. At the same time it must be admitted that the disqualifications prescribed are not com-

prehensive. For instance, in England, a person who has been surcharged for a sum beyond £ 500 is disqualified from being a member of a local authority. It is desirable that a similar provision should exist in the local Acts also, so that it may prevent members from practising fraud or embezzlement of public funds. Another disqualification which we do not find in the Assam Local Acts is that an official subordinate or an official superior of any sitting member should not be a member of the local authority concerned. This is necessary to prevent the formation of cliques and factions.

Again, the disqualification that a member who is in arrears of dues for more than three months from the date of receipt of the demand notice automatically ceases to be a member of the local authority ought to have been a universal rule instead of being confined to the members of the municipal boards because a substantial number of members of the rural boards were in the habit of not paying their dues to the local authority and the executive authority often found it delicate to take penal action against them. The result was the loss of revenue to the local authority concerned. At present of course this disqualification is extended to all members of all local authorities.

The exclusion of teachers from the membership of the gaon panchayat and anchalik panchayat does not appear to be sound. In some villages, teachers are the only persons available for public service. They are the natural leaders of the society.

Finally, legal practitioners who appear on behalf of or against the local authority should be excluded from membership. This disqualification is at present confined to the members of the municipal boards.

Now let us consider the academic qualifications, age, and occupation of the members of the local authorities. Figures have been collected for five gaon panchayats in the Rani Anchalik Panchayat. An analysis of the figures shows that of the 59 members including presidents and vice-presidents, only three were illiterate and two were graduates.

If we take the age qualification, the younger element was not permitted to dominate local administration. Of the fifty nine members, as many as thirty three had already spent fifty summers. Only nine of them were below the age of thiry,

seventeen were above the age of thirty. Thus, the administration of the panchayats is in the hands of persons who will not resort to hasty measures. This indicates that people have faith in those who have experience and age. The same observation holds good so far as the members of the Rani Anchalik Panchayat are concerned.

As regards the occupation of members, of the fifty nine as many as forty-five were agriculturists. Four of them were teachers and three were business men. From this we may come to the conclusion that the members of the gaon panchayat were men of conservative bent or mind.

Rights and obligations: The rights and obligations of the members of the local authorities are more or less than those of the members of any legislature. A member of a local authority has the right of access to records, right to interpellate the chairman, right to move a resolution, right to participate in the deliberations and the right to vote according to his own convictions. But these rights are subject to certain limitations. For instance, a member has no right to participate in the deliberations relating to any remission of taxation or grant of money, land or other property to himself. He has also the right to call the attention of the executive authority to the wants of any locality, to waste of public funds and to visit the institutions maintained by the local authority.

One of the obligations is that every member whether elected or appointed should take an oath of allegiance to the Crown prior to 1950 and to the Indian Constitution after that date. Prior to 1930, it was not obligatory on the part of the members to take the oath. The necessity for it was also not felt. But during the non-cooperation movement started by the Mahatma, some of the members of the local authorities were involved in subversive activities. Therefore, in 1923, it was provided that every member should take an oath or affirmation of loyalty to the Crown. But there was a defect in the legislation relating to oath taking. It did not prescribe the period within which the oath must be taken. This lacuna was set right by the Municipal Act, 1926 wherein it was laid down that the oath should be taken within three months after election. Again, the Municipal Act, 1923, did not prescribe the penalty for not taking the oath in the prescribed manner. But the Act of 1926, laid down that

the members who did not take the prescribed oath within the stipulated period automatically ceased to be members of the municipal board. The oath must be taken in person. No provision is made for taking the oath either by letter or by proxy. Again, the local authority has no right to extend the period within which the oath must be taken. Nor has it the power to reinstate a person thus disqualified. But the person concerned is not prohibited from contesting an election for a seat on the board.

Neither the Assam Local Rates Regulations, 1879, nor the Local Self-Government Act, 1915, provided for the administration of an oath to a newly elected member. Similarly, the Panchayat Act, 1926 and 1948 did not provide for it. But the Local Boards Act, 1953 and the Panchayat Act, 1959, provided for the administration of the oath.

Another obligation of members of local authorities is that they should attend meetings regularly. For instance, a member of a municipal board who does not attend four consecutive meetings of the board without sufficient cause can be removed from membership. The Municipal Act, 1850, 1864, and 1868 did not provide for compulsory attendance of the members. The Municipal Act, 1876, however provided that any member, who without having obtained permission of the board abstained from attending six consecutive meetings of the municipal board ceased to be a member. The Municipal Act, 1884, howeveer, made certain changes in this regard. A member might abstain himself from six consecutive meetings provided the Government was convinced that there was sufficient excuse for his absence. Thus, under the Acts of 1876 and 1884, the municipal board was authorised to grant permission to a member to absent himself from six consecutive meetings. But under the Act of 1923, the boards were deprived of this power and it was vested in the Government. In 1956, there was a slight alteration in this provision, The number of consecutive meetings which a member need not attend was reduced from six to four. Otherwise, there was no change. But in any case "sufficient excuse" was the basis on which every case was tested. This provision as it exists is unsatisfactory. Would it not be better to reduce the number of meeting to three? Further, the penalty attached for non-attendance should be automatic. That is, if a municipal member did not attend three consecutive meetings, he automatically ceases

to be a member. Further, if the member was not able to attend the meetings, for unavoidable reasons, the municipal board should have authority to restore such persons to membership.

The Local Boards Act, 1915, and 1953 also provided for the removal of members who did not attend four consecutive meetings without sufficient excuse. But under the Local Rates Regulation, 1879, a member who was absent from the district for more than six months automatically ceased to be a member. At first the Panchayat Act, 1959 did not provide for the removal of members of the anchalik panchayat and mohkuma parishad for irregular attendance. Later on provision was made for the removal of all those who did not attend without sufficient cause, three consecutive meetings.

As regards panchayats, the Panchayat Act of 1926 is silent. But the Act of 1948 provided for the removal of members who did not attend three consecutive meetings by the board itself. At first the Act of 1959 made no provision for the removal of members of panchayats for irregular attendance. Later on provision was made for the removal of all those who did not attend three consecutive meetings of the panchayat concerned without sufficient cause.

The reasons for the absence of this provision in some Acts is not clear. This obligation should have been imposed on all. Further, the removal of members for irregular attendance should be automatic. At the same time, provision should be made authorising the local authority concerned to restore such persons to membership if there are reasonable grounds for such restoration. Government at Shillong may not be in a position to understand or appreciate the difficulties of a member at Jorhat. It is the local board that is in a position to understand the situation better.

Another obligation of the members of the local authorities is that they should pay their dues to the local authority within the prescribed time. The Municipal Act lays down that a member who fails to pay his dues within three months from the date of service of the demand notice may be removed by Government. Here again, we notice defects in the existing law. The removal of members for non-payment of dues is left to the discretion of Government instead of being automatic. Till 1964, this obliga-

tion was imposed only on the members of the municipal board. In that year it was made a universal obligation.

The next obligation is, that every member of a local authority is liable for the loss, waste, or wilful misapplication of money or property of the local authority. Such losses may be recovered from the person concerned. This obligation was imposed for the first time by the Municipal Act 1876, in which it was limited to "wilful misapplication of money" by a member. The Municipal Act of 1884, did not make any alteration in the existing provision. But the Municipal Act 1923, widened this liability. That is, a member was liable not merely for the misapplication of funds but also for the loss, waste, or misapplication of any money or other property under the control of the board." A similar obligation was not imposed by the Assam Local Rates Regulation, 1879. But its successors, the Acts of 1915 and 1953 and the Panchayat Act 1959 remedied the situation by providing that such losses can be recovered from the person concerned within a year from the date on which the cause for recovery arose.

The final obligation is that the members of the local authorities should not evince any interest in any contract made with any municipal board without the permission of Government. Any member who violated this rule was liable to a fine of Rs. 500. However, shareholders, of a corporation or members of a registered company are not deemed interested in any contract entered into between such company and the members. But such members who are shareholders should not be participate in the disposal of contracts. Interest in any newspaper in which an advertisement relating to the affairs of the municipal board is inserted does not mean that the member concerned evinced interest in a contract. Again, if a member is engaged on behalf of the municipal board as a legal practitioner or medical practitioner and received payment for such services, it was not considered as evincing interest in contract but the member concerned should not participate in the proceedings relating to such matters.

The members of the local boards were not subject to this obligation for a long time. Many members of the local boards particularly the representatives of the planters undertook contracts for the construction of roads and bridges and some appear

to have made profit out of them. This was permitted for obvious reasons. The planters commanded the necessary labour force and the technical skill. However, the Local Boards Act, 1915 and 1953, and the Panchayat Act, 1959, imposed this obligation on the members of the local boards and panchayats also.

Payment of Expenses: Now the question is whether the members should be paid for the services they render to the local authority. The British tradition is that a councillor should not be paid. Centuries ago, the important local unit was the Parish. The functions of the parish were carried out by Parish Officers who were elected but not paid, and therefore they held office for a year. Where labour was required it was supplied by the community, all the inhabitants of the Parish being under a legal obligation to give their services free of charge. The Parish was under the control of Justices of the Peace who also served voluntarily. How was this done? The Parish officers would fix the number of days of the work to be done. The inhabitants must come and do the work. A Justice of the Peace would supervise the work. This system worked reasonably well in a community essentially rural and having a way of life that changed little over centuries. The British introduced their tradition in this country in a limited way. The question of granting travelling allowance to members of local boards was first raised in 1884. But a majority of the boards were against the proposal. This was also the attitude of Elliot and of his successor Ward. In 1896, the question of granting allowances was again raised because the attendance of members at meetings was not regular. So the chairman of the Sunamganj Local Board suggested that the members of the Local Boards should be paid travelling allowance. But the Deputy Commissioner of Sylhet remarked" I think there are too many members in this local Board. If the members who never attend the meetings were weeded out and their places not filled up, the work would not suffer and perhaps we would not hear any more of the necessity of paying travelling allowance."

Although Government decided not to pay travelling allowance to the members of the local boards, the demand for payment persisted. Some municipal boards went to the extent of suggesting that their members should be paid a salary for the services they render. Unless some payment was made there

were bound to be a number of people who could not afford to be members since membership, particularly of a losal board involved travelling long distances at considerable expenditure of time and money. Again, it was not reasonable to expect people to do things for nothing. It was also argued that public business is after all business and you must pay properly if you want to get proper people to do the business properly.

Here are two suggestions, payment of travelling allowance and payment of salary. Before considering the payment of either or both, it is well to enquire the nature of the work and the qualities that are wanted in those who are to do it. A member of a local authority is not expected to possess expert knowledge about matters with which the board is concerned. The special skill necessary to administer a service is provided by the paid staff. The elected member is there to represent the public view—the non-specialist view. His main business is to see how things appear to ordinary people, how the common man looks at things administered by the boards. That is, he must be a good representative. This quality is found, in all people. It is not developed by any particular kind of education or training. A common man without much education may prove himself a good representative as a man with the fullest professional qualifications or a most successful business man. So if we decide to pay a salary what is the basis on which it should be paid. If each member is to be paid according to his qualifications or at the rate at which he is paid in his private life, then there will be great differences in payment. So a standard rate of pay may have to be adopted but again the question arises on what basis it should be determined. The usual way is that it should be fixed at a figure which will attract competent persons. But the question arises which is the figure that will be attractive. If we fix a certain amount as salary it may be attractive to some whilst others may consider that as average pay and still others may consider that as below the average.

There is also another problem. If a salary is fixed people at the lower rung in the social ladder may be encouraged to enter the local boards. The middle classes and the aristocracy may not touch it even with a barge pole. So there is the risk of persons without any sense of responsibility becoming members and looking upon local government as means of drawing

an income higher than that which they cannot get in ordinary employment. Since becoming a member depends on success in elections, elections will be fought not on principles but with a view to get a job. It logically follows that there should be no payment of salary. But then there is a practical question. Members who are called upon to serve on a local board should not be taxed beyond a certain limit. If this principle is accepted the members of the mohkuma parishad and of the anchalik panchayat are entitled to travelling allowance so that they may be able to meet the incidental expenditure connected with their attending the meetings of these local authorities. Beyond this no other payment should be made to any one. Recognising this principle, members of the local boards alone were paid travelling allowance.

There are of course other points which have to be considered in this connection. A person who makes his own living is not likely to suffer a loss by attending the meeting of the local authority of which he is a member. Persons who own their own business and professionals and those in the higher positions, in trade, industry and commerce can arrange their business in such a way so that they may not suffer any loss. There are, however, small shop keepers, who may have to close their business to attend meetings or keep some one to run the business during their absence. Similarly, a lady councillor who has a number of children must employ some one to look after them and the house if she is to be free to attend the meetings. How to compensate these classes of persons who are actually losers ? It may be said that some compensation should be paid to these two classes of persons. There are, however, certain difficulties. It may bring forth protests from these who are not paid. Further, these two classes of persons may not furnish correct figures of loss. In England a member is paid not only travelling allowance, subsistance allowance and lodging allowance, but also a sum of 15 shillings for half day and thirty shilling for a whole day provided he certifies that he suffered that amount of loss. Some such arrangement may appear to be necessary in this country also. But things have not come to such a pass. The existing arrangement—payment of travelling allowance to members of anchalik panchayat and mohkuma parishad is satisfactory.

Recall of Members : The Panchayat Act, 1948, alone provided for the recall of members. No other Act made such a provision and this Act was in force just for a decade.

Removal of Members : Removal of members may be in two ways, either by Government or by the board. The Municipal Act, 1868, provided for the removal of members by petition signed by not less than one-third of the tax-payers inhabiting the town or the ward for which a committee was constituted. But the condition precedent was that the petitioners must have paid their dues to the local authority.

Let us consider the removal of members by the board. The Municipal Act, 1850, 1864, and 1868 did not provide for the removal of members by the board. But the Municipal Act, 1876, provided for their removal by Government on the recommendation of the municipal board provided the member concerned was guilty of misconduct in the discharge of his duties or of any disgraceful conduct. Thus, the board and only the power to recommend the removal of a member. It itself had no power to remove him. If Government did not accept the recommendation of the board it was helpless. The Municipal Act, 1884, was unambiguous in this matter. The Municipal board could only recommend the removal of a member. Government might remove " if it thinks fit". So it was not mandatory on the part of Government to accept the recommendation of the board. The Municipal Act, 1923, deprived the municipal boards of even this limited power. But Government in consultation with the board could remove any member if his continuance in office was in its opinion dangerous to public peace or order or likely to bring the administration into contempt provided the person concerned was given an opportunity to show cause against such removal. The Municipal Act, 1956, reversed the position. It authorised the board to recommend the removal of a member by a two-thirds vote. But Government may not remove a member even though it was recommended by a two-thirds vote if it is convinced that the recommendation is perverse. Although the municipal boards were authorised to recommend the removal of any of its members, the local boards and panchayats never possessed this limited power. The reasons for this discrimination are not clear.

All the local Acts have provided for the removal of mem-

bers by Government. We may however note the provision made in the different Municipal Acts. The Municipal Acts, 1850, 1864 and 1868 authorised the Government to remove any member at any time. But the Municipal Act, 1876, did not endow the Government with such unlimited power. It could remove a member as we had already noted only in consultation with the board. But the Municipal Act, 1884, authorised the Commissioner to remove any member under certain circumstances such as if the member refused to act or became incapable of acting or was declared insolvent or was convicted for any non-bailable offence or dismissed from government service or did not attend six consecutive meetings of the board without its permission. A member removed could appeal to Government against the order of removal. The Municipal Act, 1923 transferred this power from the Commissioner to Government and laid down the circumstances in which a member could be removed. They were, besides those already mentioned, a member who ceased to be an inhabitant of the locality, who refused to take oath within the prescribed time, who acquired an interest in a subsisting contract or who was debarred from practising as a lawyer before a court. The Municipal Act, 1956 contains similar provisions.

Under the Assam Local Rates Regulations, 1879, Government had unlimited power to remove any member of the district committee at any time. But under the Local Boards Acts, 1915 and 1953 Government could exercises this power under circumstances similar to those mentioned in connection with municipal members. The Assam Panchayat Act, 1959, does not contain a similar provision.

Government has power to remove a member of a panchayat. The circumstances in which a member can be removed are similar to those mentioned above in connection with the removal of members of municipal boards.

As regards panchayat courts, the court had no power to remove any of its members. This power was vested in the District Magistrate or the Sub-Divisional Magistrate. At present this power is vested in the District Judge who can remove any member for misconduct or disgraceful conduct.

Resignation of Member: All the local Acts provided for the resignation of membership without assigning any reason.

But under the Panchayat Act, 1871, a member had no right to resign and had to accept the nomination. A person who refused to accept the membership of a panchayat might be punished with a fine of Rs. 50. Although the local Acts provided for the resignation of membership the procedure for its acceptance has not been laid down either in the Acts or in the rules. In the absence of such a procedure spurious resignations may be produced. It is therefore suggested that the person authorised to receive the resignation must first verify from the person concerned whether the resignation is a genuine one. Only after such verification the officer must proceed with the filling up of the vacancy.

What type of persons were elected or appointed by Government ? It is practically impossible to give a conclusive answer to this question because of the lengthiness of the period under review and the number and variety of local authorities in question. But a careful study of the annual reports, both municipal and local, shows that some of the members of the local authorities showed commendable independence and public spirit in the discharge of their duties.[1]

It must also be said that some of the members did not act in a responsible manner.[2]

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[1] One of them was Bainbridge a member of the Gauhati Municipal Board. Finding the Gauhati town highly insanitary Hopkinson. authorized Bainbridge to punish those who were committing nuisance. In the discharge of his duties, Bainbridge found a gigantic nuisance in the compound of Hopkinson himself—an elephant which belonged to General Vetch, a friend of Hopkinson. Bainbridge requested General Vetch to remove the animal which he refused to do. Then Bainbridge directed the Superintendent of Police to remove the animal which was accordingly done. Hopkinson resented the action of Bainbridge and adopted underhand methods to remove him from the membership of the Board. Bainbridge resented the attitude of Hopkinson and resigned.

[2] For instance, on May 30, 1951 the Dibrugarh Municipal Board by a unanimous vote condemned the action of an ex-chairman for removing the cylinder block of a municipal lorry and for replacing it by another of his odd lorry, for taking the levelling instrument and a timepiece of the Board and for purchasing newspapers at public expense for his personal use On October 7, 1952, the board committed somersault when it resolved that the resolution of 30th May, 1951 was "passed in a hurry on account of a misunderstadning of the

At the same time it must be said that some of the local authorities consisted of eminent men.[3] It must, however he said that there has been a decline in the quality of members in recent years.

facts and therefore be annulled." The matter was again reopened on 4-5-1954 and the board resolved that it was not competent to annul the resolution of 30th May, 1951. One of the members of the board first condemned the ex-chairman for his corrupt practices, then supported the resolution annulling the previous decision and later on condemned the ex-chairman.

[3] The Gauhati Municipal Board for instance, consisted of eminent men like Nabin Chandra Bardoloi, Gopinath Bardoloi, Suryya Kumar Bhuyan, Manik Chandra Barua, Muhammad Saadulla, Tarun Ram Phukan and Bishnu Ram Medhi. Seventy-five percent of the Chief Ministers of Assam were non-commissioned officers of the Gauhati Municipal army. There were others who were equally great. Rai Saheb Bhuban Ram Das (Gauhati), Durlaba Mazudar (Nowgong), Kamini Kumar Chanda (Silchar), Mahendra Mohan Lahiri (Gauhati), Amzad Ali (Shillong), Upendr Nath Bose (Dhubri). Man Govind De (Silchar), Man Mahon Lahiri (Tezpur), Krishna Kumar Barua and Keramat Ali (Jorhat), Sadananda Dowera (Dibrugarh) and Anukul Chandra Sen (Karimganj) are some of the many that rendered meritorious services. Sadananda Duwara performed a tremendous task in clearing the Augean Stables at Dibrugarh.

CHAPTER XI

THE ELECTION OF MEMBERS

Elections to local authorities may be direct or indirect.[1] In Assam, the members of the gaon panchayat are elected directly but some of the members of the anchalik panchayat were elected indirectly. Prior to 1948, the members of the local boards were elected by the members of the Choukidari Panchayats. Direct elections are a nuisance, involving great expense.

Theoretically, it is desirable to have indirect election because it is simple and cheap a small body of persons, themselves elected are not likely to be influenced by exaggerated promises, demagogy slogans and shibboleths. They will consider calmly the merits of the respective candidates and therefore are likely to make a better choice than is likely to be done by the less well informed electorate. It was this view that induced the framers of the American Constitution to provide for the indirect election of the senators.

The disadvantages, however, are substantial. The essence of democratic government is that elected representatives should feel that they are responsible to the people. This feeling of responsibility exists only when the members are elected directly. A directly elected member is always conscious of the fact that he will have to fight a direct election. This feeling cannot exist and does not exist if he is indirectly elected. An indirectly elected member feels that he has been elected by the board and therefore, he is not the representative rather its delegate. He is likely to seek its counsel on all important questions that are likely to come

[1] In some of the western countries like England and the United States, there is very little use of indirect elections. In England each Parish has either a Parish Meeting or an elected Parish Council. The area of a Rural District Council is made up entirely of Parish and each Parish is represented on the Rural District Council. The elections to the Parish Council and the Rural District Council are, however, separate. That is, there is no question of voters electing the Parish Council directly and then the Parish Council electing the members of the Rural District Council or the Rural District Council electing some one to serve on the County Council.

up for discussion in the board. But it is not possible for a person directly elected to consult his constituents frequently because of the absence of a suitable machinery. The boards meet quite often. They can, by resolution, direct their representatives to vote in a particular manner on particular questions. They can express their opinion on the activities of their representatives.

These is also another reason why indirect election aught not to the adopted. The board is more likely to view the election of members as a sort of patronage and may exercise it in favour of their own number instead of searching for an outsider. Or the rival candidates may enter into understanding or the board is likely to elect a dark horse who is not likely to give trouble to any one. Also it may facilitate corruption because the number of electors is relatively small. It is therefore doubtful that the system of indirect election will produce the results that it is expected of it by its founders. Because on that defect it was given up. At present some of the members of the Anchalik Panchayat alone are elected indirectly.

Unanimous Elections : It has also been suggested that unanimous elections might be encouraged in order to avoid factions in panchayats. One of the banes of democratic village administration has been the intensification of factions and feuds. So it has been suggested that elections to panchayats should not be held on party affiliations particularly in the formative stages. That is, the members of the panchayat board should be elected by a unanimous vote. In order to encourage unanimous election, it has been suggested that panchayats elected unanimously may be given enhanced powers and preferential state assistance.

For obvious reasons this suggestion did not find support with a great majority of those interested in panchayats. Emphasis on unanimous elections is likely to stifle real public opinion. It may not indicate any real solidarity. It may even show lack of interest on the part of the people in the affairs of panchayat. Again, unanimous election may be manipulated. With the increase of interest on the part of the people in the affairs of panchayats, unanimous elections may decline while, unanimity arising out of a feeling of solidarity already existing in the village is most desirable, conscious efforts on the part of officials to promote unanimous elections may produce unhappy results. It may increase corrupt practices and pressure tactics. Unanimous

elections as well as indirect elections are a part of the technique and apparatus of authoritarian and totalitarian system. We cannot have unanimous elections without managing them.

Again, giving powers to unanimously elected panchayats is undesirable because a panchayat elected unanimously today may not be re-elected by a unanimous vote next time and powers once given are given once for all. They cannot be varied from time to time. Therefore, the problem is how to secure freedom to the voters to exercise his franchise without the possibility of creating tension. The Mehta Committee was not able to suggest any arrangement which can secure this. In some places unanimous election was successfully tried. In the former Saurastra State, a **Madhyastha Mandal** was created for the purpose of ensuring unanimous elections as far as possible. The Rajasthan Government refused to give grants to Panchayats if there was no unanimous election. In North Madurai (Madras State) this experiment was successful.

The Andhra Pradesh Government announced in May 1964 the following cash prizes to panchayats whose members and Sarpanchs were elected unanimously. A panchayat with a population of 3,000 and over would get Rs. 5,000 and others Rs. 2,500. Panchayati samiti which elected its president and coopted members by a unanimous vote would get Rs. 25,000. This announcement had a tremendous effect. Of the 15,223 panchayats as many as 7,144 returned their members without a contest. Although the number of panchayats elected by a unanimous vote is impressive, the fact remains that fifty percent of the panchayats were not lured by the cash prizes and the forces of democratic process had their way. So it may be said that unanimous elections are not papular everywhere.

Secret Vs Open Ballot: Another problem connected with the election of panchayats is the mode of election. Open voting has been provided for the election of members of goan panchayats in order to reduce the expenditure on elections. The Central Council of Local Self-Government Ministers suggested that provision should be made both for secret and open elections. The system of open election was advocated by John Stuart Mill though Bentham and James Mill were eager supporters of secret ballot. John Mill thought that vote by ballot would enable a voter to vote according to his selfish desires. The theoretical

arguments in favour of open ballot is that it would instil moral courage in the voter to vote according to his convictions. But the advocates of open voting do not realise the practical difficulties involved in the open ballot system. It brings into existence intimidation. Therefore, there can be no free elections. This was noticed in the election of members of gaon panchayats. Many a voter who would otherwise have exercised his franchise did not go to the polling booth. Members of the Legislative Assembly, members of the anchalik panchayat and servants of the panchayat did not exercise their franchise for fear of incurring the displeasure of the contesting candidates. Again, open voting caused a good deal of physical suffering to the voter. Men and women were kept in the scorching sun in enclosures like cattle in a yard. Above all, open voting resulted in the outbreak of rioting. Out of 1421 gaon panchayat elections held in eleven sub-divisions in 1961, there were disturbances in 201 places and as a consequence elections had to be postponed. Open voting also resulted in the desertion of candidates at the time of election. Waverers simply crossed the floor and went over to the candidate who had behind him a larger number of supporters. Above all, unauthorised persons somehow got into these enclosures. So open voting system was given up in 1964.

Introduction of the elective system: Although the Municipal Act, 1850 expressly prohibited the election of members of the municipal boards, some sort of election seemed to have existed in Gauhati where the Act was in force. The proceedings of the board record the election held from March 8 to 13, 1858.[1] Two person secured equal number of votes and both of them were appointed members of the board. It is not clear from the proceedings as to who the voters were, what their qualifications had to be and who were entitled to be elected as members. Further, we do not find any reference in the the proceedings for the subse-

[1] Proceedings of the Gauhati Municipal Board, 19-3-1858. There were two candidates, Munshi Kiffayatulla and Sadr Munsiff and Gargoram Baruah the Srdr Amin. The resolution of the board reads as follows: "The polling papers have been scrutinised and it was found that both the candidates secured equal number of votes :447 so the board recommended that both might be appointed as members." It was done.

[2] No. 1784 G. 2-11-1882.

quent years to the election of members. It may be presumed that some kind of informal method was adopted to elicit public opinion about the popularity of the candidates. However, the fact remains that the Lt. Governor of Bengal was the ultimate authority to appoint members of the municipal board. During the period 1858 to 1882, the question of election of members was not mooted. In 1882, taking advantage of the permissive provision contained in the Municipal Act 1876, the rate payers of Sylhet applied for the introduction of the elective system in that town and the Chief Commissioners had "great pleasure in directing that all the commissioners to be appointed for that municipality shall henceforth be elected."[2] Thus, Sylhet had the unique distinction of being the first municipal board to consist of elected municipal commissioners. Government adopted a liberal attitude with regard to other municipal boards. Although, he did not wish to thrust the elective system on the unwilling boards, Elliot directed the respective Deputy Commissioners to consider the feasibility of the elective system in Dibrugarh, Gauhati, Sibsagar, Goalpara and Dhubri and obtain petitions from the citizens of these places, for the introduction of the elective system as required by section 16 of the Act of 1876.

In 1882, there was a great debate on this issue. Ripon said that elections in some form or other should generally be introduced in towns of any considerable size and might be extended more cautiously and gradually to the smaller municipal boards. Elliot, was extremely anxious to introduce the elective system in the local authorities not only because it was the desire of Government but because the principles set forth in the Resolution of the Government of India thoroughly commended themselves to his judgment as sound and wise. The Resolution was circulated among the district officers who expressed different opinions.[3]

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[2] No. 1784 G., 2-11-1882.

[3] Johnson, the Deputy Commissioner, Sylhet, was in favour of the election of members of local authorities. The Deputy Commissioner, Cachar was against the proposal because the district was very backward in every respect. The Deputy Commissioner, Goalpara, thought that it was not expedient to introduce the elective system in the district. The Deputy Commissioner Kamrup, suggested indi-

William Ward, the Commissioner of the Assam Valley rejected the idea of election of members because the people were not sufficiently advanced to understand what such a system meant.[4]

Ward argued that the districts in the Assam Valley were not like those of the advanced provinces in the rest of India where a greater number of men were available for selection by both Government and the people.[5]

So Ward suggested that the district officer should continue to nominate the members. He had implicit faith in the capacity of the district officer to select real representatives of the people.

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rect election, the election of members of panchayats by a direct vote and the election of members of the other local authorities by the members of the panchayats. The Deputy Commissioner, Darrang suggested nomination as the best means to make local boards representative. The Deputy Commissioner, Nowgong, suggested indirect election. That is, the members of the Thana Board should be elected directly and the members of the district committee should be elected by the members of the Thana Board. An interesting suggestion was made by the public meeting held at Sibsagar. Applications for the membership of the local boards should be invited. A committee consisting of four Indians with the Deputy Commissioner as chairman should be constituted for the selection of candidates to be placed before the electorate The public meeting held at Jorhat also demanded the introduction of the elective system. The Deputy Commissioner, Sibsagar, however was against its introduction in the local boards but was in favour of extending it to municipal boards. He considered the election of members of local boards as impracticable.

[4] "We do not wish to give the people" wrote Ward, "power to elect men who are not respectable, or who if respectable are not educated, or who if both educated and respectable have no capacity for business. If then we wish to prevent electors from electing unfit candidates for the boards we must have a system of election subject to government approval or the government selecting the candidates and the people electing what the district officer selects. This will be little or no advance upon the present system by which the Deputy Commissioner nominates and the Government appoints."

[5] "Educated Assamese gentlemen of active business like habits are not so numerous as to allow the people a very large field for selection. They may be counted on the fingers in any district ; and it is scarcely worthwhile to introduce the elective system into any district which affords little or no opportunity for the people's elective propensities, supposing they have got any."

At the same time, he said that if the Chief Commissioner insisted on the introduction of the elective system it might be tried in two places, Gauhati and Dibrugarh. He was against the introduction of the elective system in all municipal areas. Because "municipal government in Assam has not been a success and there is no reason for supposing that the application of the elective principle at this stage of its existence will make it any more successful. This has already been recognised in Bengal where there are municipalities far in advance of any municipality in this division, into which elective system has not yet been introduced."

Ward further argued that if the election resulted in the selection of members who were previously nominated by Government there would be no difference between nomination and election. But the Chief Commissioner replied that there was a vital difference between the two. The elected member would feel which the nominated members would not that he had a constituency behind him. Again, the elected members would develop a sense of responsibility. More and more public spirit would be roused and a sense of public duty would insensibly be attained. Elliot was, however, aware of the danger that the experiment might fail through want of interest on the part of the people. A sufficient number of candidates imbued with a sense of civic spirit might not be forth coming. Yet he maintained that the experiment should be tried and instructed the Commissioner of the Assam Valley to try it in Sibsagar because the people there showed greater interest in the matter and the Deputy Commissioner Sibsagar was requested to work out the details. The proposals of the Sibsagar public meeting were circulated to all the Deputy Commissioners in the Assam Valley to see whether the elective system could be introduced in the areas, under their jurisdiction. The elective system was introduced in Sibsagar. It was not a success as in Sylhet. This was due to the fact that wards were not constituted properly. Further, the people had no experience in the election of members. Therefore, the Sibsagar Station Committee was not a representative body. So the Commissioner instructed the Deputy Commissioner to call upon the principal communities to elect their representatives. Thus came into existence communal representation in the Sibsagar Station Committee.

Since 1884, the elective system was introduced in many places.[6]

In 1900, the elective system was in force in six municipal areas. A modified system of election was introduced in Shillong in 1904. By 1915, elective system was extended to eleven of the nineteen municipal boards. In the next year, it was extended to four more boards except in Shillong.

Shillong was singled out in regard to the election of members from the very beginning. In 1893, the question of introducing the elective system was mooted. The Chief Commissioner was opposed to it. The reasons given by him are somewhat amusing. "The population" said the Chief Commissioner "is composed of several entirely distinct sets of people whose interests and feelings are so very different that the members of one set could hardly be expected to accept as their representative a member of another. There are the Europeans. Civil Officers, the Khasis, the Bengalis, the shop keepers, the Welsh Mission at Maukhar, the Sylhet clerks, Muhammadans and a sprinkling of Assamese. The only chance of our getting a municipality to work smoothly is to get upon the board at least one representative of each leading sect while recognising the European official character of the station by making European official influence dominant. Every such consideration points out to the necessity of our filling the municipal board by nomination rather than trusting to the hazards of an election. And in a place so purely official, nomination is not felt even by the theoretical radicals to involve an invasion of popular rights. I would therefore not pursue the question of election further because we are not likely to get decent com-commissioners by an elective system.[7]

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[6] Since 1884, the elective system was introduced in many places. But in 1889, the elective system was kept in abeyance in Sibsagar because of the maladministration of the board. In 1891, elections were held in Goalpara but not a single voter turned up to exercise his franchise. So both in Sibsagar and in Goalpara all the members were nominated.

[7] No. 140-148, Home-A. November 1893. See the note of P. G. Melitus. Melitus wrote "Shillong is essentially a station in which officials predominate. Therefore, it would be unnecessary to extend the elective system to it. My own view is that officials would have to form a majority of the station committee." Melitus suggested that the Deputy Commissioner should invite each important section of the

In 1905, Government decided to extend the elective system to Stations also. But in the case of Shillong which was also a Station, Government decided to introduce informal election of certain number of members whose election would be subject to its approval. That is, the candidates elected by the rate-payers were formally appointed as members by Government. It was in 1920, forty years after its constitution, that the elective system was introduced in Shillong.

As regards local boards, the elective system was introduced as early as in 1882. While admitting that it might not be possible for the election of Indian members by rate payers in some districts, Government said that the representatives of the tea planters might be elected. Accordingly, the representatives of the tea planters were elected directly.

The elective system for the election of Indian members was introduced in Sibsagar, Kamrup and Sylhet. In each of these districts a committee consisting of four Indians with the Deputy Commissioner as chairman was to be constituted for the scrutiny of the qualifications of the candidates and to prepare a list of eligible candidates. Although detailed instructions were issued enumerating the functions of the committee, they were not observed. For instance, committees were not constituted in each sub-division. Where committees were constituted they went beyond their jurisdiction. The business of the committee was to see that a candidate possessed the required qualifications. But the committee constituted at Sibsagar took upon itself the function of selecting the candidates.[8] It selected thirty out of 182

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community to elect among themselves a certain number of nominees. Govement would select from them the required number of members. It was not bound to select from the list of candidates selected by the rate-payers. This suggestion was not accepted by the Government.

See also No. 4008 F. Shillong 12-10-1908.

[8] Letter No. 2713. Home-A 21-5-1883. Col. Campbell the Deputy Commissioner, Sibsagar wrote, "The Committee when it found that there were so many applicants from all descriptions of persons with different degree of education, had but two courses open to it either to accept the whole of the applicants or else to select those candi-

applicants. It did not give convincing reasons for the rejection of 152 candidates. Further, all the candidates selected were residents of the headquarters town.

The Committee committed another mistake. According to the instructions issued by Government the candidates had to be residents of the constituency which they were supposed to represent. But in the Jorhat and Golaghat sub-divisions, all the candidates were permitted to contest in all the constituencies.

A third mistake which it committed was that no principle was observed in the organization of the constituencies. There was disparity between one constituency and another, in the size of the electorate in some circles in the Sibsagar sub-division. As a consequence of all these factors, elections to the local boards in the Sibsagar district were defective. So Government ordered that the members of the local boards in the Sibsagar district should hold office for a period of one year only and that fresh elections should take place the next year.

The elective system was introduced in the Kamrup and Sylhet districts in 1883. But unlike in the Sibsagar district rules issued by Government were observed and as a consequence, the elective system worked satisfactorily. The elective system was not introduced in any other district.

In 1892, Cotton considered the question of extension of the elective system to other boards, but thought that it was impossible[9] In 1904, a novel system of election was introduced by Bamfylde Fuller viz. the Indian members would be elected by the gaonburas (village headmen). There was vehement criticism against this proposal. The non-official opinion was definitely against the reactionary proposals of the Chief Commis-

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dates only who were but educated and the most fitted for the boards by their former and present occupations. The committee decided upon the later course and rejected majority of the applicants and selected just 30 out of the total 182 candidates."

[9] No. 200., I.S.G. 8-9-1895. The Chief Commissioner wrote "After all what is needed is representation rather than election and the Chief Commissioner is not of the opinion that in rural tracts, in India, representation is efficiently secured by any method of election."

sioner.[10] Exen the officials were against it.[11] The Commissioner of the Assam Valley suggested a combination of Kamrup and Sibsagar system of election. That is, there ought to be a committee of selection consisting of four members with the Deputy Commissioner or the sub-Divisional Officer as its chairman. It ought to scrutinise the list of candidates and reject the applicants who did not possess the required qualifications. The Chief Commissioner did not accept the recommendation of the Commissioner. He thought that the system of election of rural members in Kamrup, Sibsagar and Sylhet was farcical though it was a success. As a matter of fact the Chief Commissioner had already decided to elevate the status of the gaonburas and therefore introduced the system of election of members by gaonburas in places where there were no choukidari panchayats.[12]

When the Lt. Governor Bailey visited Jorhat in 1909 its residents submitted a memorandum praying for the election of members of the local boards by the rate-payers instead by gaonburas. Bailey was, however, informed that although the existing system of election was exceedingly restricted and excluded many who ought to have had a voice in the election of rural members, Assam Valley was not ripe for the introduction of the elective system.[13] The Financial Secretary, however, contended that some action ought to be taken and some sort of

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[10] No. 50 Home-A. August 1905. A. K. Chanda however struck a different note. He said " How far it will be appreciated or even understood in a place like Cachar remains to be seen. My experience of the district hardly encourages me to be over sanguine about this. But I cannot on that account be against the introduction of the elective system. I think however, that we must not expect any tangible practical result at present but be content to look upon it as only a great educating agency."

[11] L.S.G.-A June 1905. Letter from P. C. Melitus, Commissioner of the Assam Valley.

[12] Ibid. Note by Bamfylde Fuller. " It is the decided policy of the Government that they (the gaonburas) should represent their villages. I attach no force to the argument that we are withdrawing a popular franchise from Kamrup and Sibsagar. I have ascertained that the elections held in these districts are really farcical.

[13] Ibid. Note by Kershaw, Secretary to Government, L.S.G.

elective system must be introduced.[14] But nothing was done till partition was annulled.

After the reconstitution of Assam into a separate province in 1912, a conference of the prominent persons of the province was called for to consider the feasibility of democratic elections. The conference, however, decided to continue the existing system system of election though it was aware that it was unsatisfactory. It was in 1915 that a new elective system was introduced. Since then there had been direct election of the members of the local boards.

The members of the choukidari panchayats were appointed by the district magistrate. Under the Local Boards Act, 1915 the members of the village authorities were either appointed or elected. Where the elective system was introduced election was informal. It was conducted in the presence of an officer not below the rank of a Sub-Deputy Collector. At the time of election, the presiding officer asked the villagers to indicate the person or persons whom they considered best to serve as members of the village authority and their decision was accepted. Under the subsequent Acts the members of the panchayats were elected.

Electoral Divisions : For the election of members, each local authority is divided into wards in the municipal and panchayat areas and circles in the rural areas. The size of the electoral division is important because on it depends the effectiveness of representation. Each ward or circle must contain as nearly as possible equal number of voters. In that case each voter has potentially the same weight. If one ward or circle should have fewer electors then each elector in that ward or circle will carry more weight than an elector in another. This is very true if the disparity is very great. Let us take an extreme example. If one division has ten electors six of them are certain of returning a member. If another division has 100 electors 51 voters are required to return a member. It is true that some concession must be made to geography. If a village has rather more or rather less than the average it may nevertheless be sensible to take it as an electoral division. Equality

[14] Ibid. Note by P. C. Lyons, Secretary Finance.

is a principle that should be adopted as a guide and be followed as far as it is practicable.

For a long time, the wards in municipal areas were not single member constituencies. In several places, they were multi member constituencies.[15]

Later on, however, single member constituencies were formed. As regards local boards, each local board area was at first divided into circles and most of them were single member constituencies.[16] After the introduction of the tahsil system in 1893-94, people came to regard the tahsil as their natural headquarters. In conducting elections to the local boards, it was found that if an election center was located in another tahsil voters did not like to go to the polling booth. In order to remedy this state of affairs, each tahsil was formed into an electoral circle.[17] In 1915, electoral circles were formed after taking into account area, population and rates paid. Yet it must be said that the principle of equality was not observed in the constituencies.[18]

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[15] Assam Gazette 19-8-189. The Silchar Town was divided into four wards, the first two wards returned four members each and the other two, two members each.

[16] Ibid. 3-2-1883, p. 67. Kamrup, Sibsagar and Sylhet districts were divided into circles. Others were not divided because the elective system was not introduced there.

[17] Annual Report 1893-94, p. 4.

[17] No. 718-743. L.S.G.-A March 1928. Tezpur, the twelve non-Muhammadan constituencies were formed as follows:

Name of the Constituency.	Are held Sq Miles	Population	Local Raiyats
1. Chopai-Mouza-Mangaldai	35,412	8,415	Rs. 1,990
2. Sambari-Dalgaon	53,851	13 562	2,042
3. Orang	30 974	17,018	1,175
4. Basilajhar-Ambagaon	56,151	17.341	2,194
5. Harisingha-Bakora	44,347	24,008	1,963
6. Sekbar	31,750	15,482	1,408
7. Maji-kuchi-Chinakona	86,520	13,492	2,742
8. Kaligaon-Silpotn	51,580	15,094	2,378
9. Sarabari-Dahi	51,672	11,800	2,906
10. Dipila-Rainukusi	46,554	8,209	1,945
11. Lokrai-Sipajhar	48,654	13,678	1,827
12. Hindu Gopa-Rangamati	48,837	16,869	2.571

See also 827-6-8-3-L.S.G.-A. March 1928. North Lakhimpur.

As regards panchayats, they were not divided into wards even though some of them were big in size. One of the reasons given was that there might be gerrymandering in the formation of wards. This difficulty could have been got over by entrusting the formation of wards to the Revenue Department. At present, each gaon sabha is divided into single member constituencies. While forming the constituencies the magistrate should see that they are equal to one another so far as the number of voters is concerned. But voters living in the same house should not be allotted to different constituencies.

Franchise : The word ' franchise ' originally meant a privilege. He who had a franchise possessed something which others did not. For example, we can mention franchise as an exclusive right to run a ferry. In the early days, the right to vote at parliamentary elections was restricted to relatively few people and therefore when it came to be regarded as a privilege, it was called a franchise. From 1882 onwards there has been agitation for turning the privilege of a few into a right common to every one. The advance towards adult franchise took various forms. One of them was that only people with a status in the country should be allowed to vote. The principal decisions of politics involve money and how, it has been asked repeatedly, can we expect responsible political decisions from people who neither own property nor have substantial incomes and who will not therefore bear the cost of the services administered. Therefore, it was argued that tax-paying must be the basis of franchise. The answer to this argument is that every one has a stake of some kind or other in the country. Every person is affected by the activities of Government, and therefore must have a share in Government. Again those who do not pay directly pay indirectly.

It was also argued that franchise should be restricted to persons who understand the issues on which they may vote. Now, how can a list of voters, who understand the issues be prepared. Is literacy a criterion ? It is not. Political judgement does not depend upon literacy. A man may be literate and yet may not understand the implications of a particular issue. He may even be ignorant and stupid in understanding public affairs. A man may be illiterate and yet have all the qualities that a man of public affairs must have.

The various attempts to restrict the right to vote to some classes or to prevent members of other classes, groups or races from the right to vote, have always meant that the State exists for those who had the right to vote. Even if it be true that a society would be better governed if power were reserved to some class or section experience shows that the existence of an excluded class will result in the creation of discontent. The real justification for adult franchise is not that it is a perfect solution but that anything else is worse.

Adult franchise must however, be subject to certain limitations. The most important limitation is that the names of the voters must be registered. The implication of this rule is that only those persons whose names are on the register may vote.

Rural Voter : Closely connected with the extent of franchise is the question whether every voter should have just one vote irrespective of any other consideration or whether some people are to carry more weight than others. As long as property was the basis of qualification some persons had from one to six votes according to the amount of tax paid by them. Each tea planter in Assam had more than one vote. The number of votes which the manager of a tea estate possessed depended on the acreage of his garden. This was an untenable position. So it was abolished.

There are however, other ways by which a man may be given greater voting power than his neighbour. A man may have property in more than one constituency and so his name may be registered in more than one place. This is likely to happen where the only qualification is property. So it has been said that no one should be allowed to vote more than once in the same election. This is theoretically correct. But this rule need not be insisted on. A man who lives in a rural area may have a shop in a neighbouring town. Though he does not live in the town obviously he has an interest in the affairs of the city. Under these circumstances, it is desirable that he should possess two votes.

So far we have considered the theory of franchise. How far did theory and practice go hand in hand ? Prior to 1882, there was no right to vote. In 1882, Elliot suggested that the right to vote should be conferred on persons who paid a municipal tax of Rs. 2 per annum provided this qualification did not

exclude too many rate payers or on persons who were capable by education and position to give an intelligent vote. Actually, however, voting qualification varied from time to time and from place to place.[19]

The Municipal Act, 1884, put an end to these variations and prescribed uniform qualifications for municipal voters throughout the province. They were, first, that the voter should be a male. Apart from the sex qualification, only those who resided within the municipal limits for twelve months preceding the date of election and paid a tax of Rs. 3 per annum to the municipal board, graduates or licentiates of a university, pleaders or mukhtiars or those in receipt of a salary of Rs. 50 per month or paid income tax were registered.

In 1920, when Government decided to introduce the elective system in Shillong a question of considerable political importance arose. Because of the Matriarchal system the house property among the Khasis almost invariable stood in the name of women. The bulk of the Khasi rate-payers in Shillong were women and constituted about 44 percent of the eligible voters. But the Municipal Act, 1884, denied the right to vote to women. If this rule had been enforced in Shillong most of the Khasis

[19] In 1883, the qualification for the municipal voters in Sylhet was payment of a tax of Rs. 1-8-0 per annum. In those days, when the purchasing power of an anna was high Rs. 1-8-0 was considered as fairly high. It was fixed at that figure because there were a large number of labourers who were ignorant and uneducated and therefore not capable of taking an intelligent interest in municipal elections. Besides the tax payers, Government pensioners or servants drawing Rs. 20 and above a month as pension or salary, pleaders, graduates of any university and persons whose names had been entered into the list of jurors and assessors were qualified to vote. The qualifications prescribed for municipal voters at Gauhati were comprehensive. They had to be males, a condition not imposed previously. They should have resided in the town for at least twelve months preceding the date of election or received a salary of Rs. 50 a month. The effect of this property qualification was that Hindus were enrolled in large numbers because of their better financial position and as a result were able to secure more seats in the municipal board, than their numbers warranted. Further, variations in the qualifications of voters from place to place were invidious and inexplicable, because the person possessing the same qualification had the right to vote in one place and was denied of it in another.

would have been excluded from the right to vote. So rules were amended and the right to vote was extended to women, but to Khasi women alone. However the fact remains that the right to vote at municipal election was very much restricted. Not even 1/10 of the population and not even one half of the rate-payers had the right to vote.[26]

In 1923, franchise was broad bottomed to some extent—the sex disqualification was removed—property qualification was lowered. All those who paid Rs. 2 as tax in the previous financial year, managers of companies, or occupiers of buildings or land whose monthly rental value was not less than Rs. 50 were given the right to vote. The other qualifications were those which already existed. In 1957, franchise was further extended by lowering the tax paying qualification to Re. 1. From the above it is clear that enfranchisement of the people did not proceed rapidly Even today there is no adult franchise in the municipal areas. Property or tax paying is still the basis of this right. While members of parliament and of the State Legislature are elected by adult franchise it is strange that the municipal commissioners should be elected by a restricted franchise. As long as municipal franchise is a privilege of some, municipal boards cannot be considered democratic.

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[26] No. 4011-M. 2-11-1920 Shillong.
L.S.G.-A, January 1919.

	Population	No of rate Payers	No of voters.
Silchar	8,75	1,547	811
Sylhet	14,857	3,081	1,530
Habiganj	6,249	1,109	571
Karimganj	3,052	849	366
Sunamganj	4,620	829	336
Dhubri	5,805	707	303
Goalpara	5,964	893	429
Barpeta	10,738	1,957	484
Gauhati	12,481	2,103	799
Tezpur	5,355	1,056	405
Nowgong	5,433	983	543
Sibsagar	3,607	855	530
Jorhat	5,231	1,112	730
Dibrugarh	14,565	2,570	1,069

The qualifications of the voters of the rural boards differed from time to time. In 1883, the qualifications prescribed for local board voters were pretty high. As in the case of municipal voters, the local board voters had to be residents or owners of property in the circle in which he had the right to vote. As regards property qualifications, each voter had to be an owner of Khiraj land paying not less than Rs. 20 as tax to the Government, owner of nisf khiraj land paying not less than Rs. 20 per annum, owner of 20 bighas of rent free land or those who paid a municipal tax of not less than Rs. 2 per annum or owner of house property whose annual rental value was not less than Rs. 50.

In 1904, there was a controversy as to who should have the right to vote. Bamfylde Fuller was of the view that the gaonburas alone should be given the right to vote. But P. G. Melitus, the Commissioner of the Assam Valley was of the view that those who paid a rate should have the right to vote. Bamfylde Fuller did not accept the suggestion of Melitus and the right to vote was restricted to the gaonburas.[21] The restriction of franchise to the gaonburas produced disastrous consequences. The gaonburas were the village headmen and therefore practically the servants of the Government. As they were under the influence of Government they tried to secure the election of government nominees or persons acceptable to Government. Further, the gaonburas were not sufficiently educated. Sometimes they gave their vote to the highest bidder.[22] Above all, the restriction of franchise to gaonburah resulted in the exclusion of best men from the local boards. So Gurdon, the Commissioner of Assam Valley suggested that franchise might be extended to all those who paid a rate of Rs. 100 per annum.[23]

In 1909, when Charles Bailey visited Jorhat, its citizens

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[21] Letter No. 2966-G. 16-11-1904, from the Commissioner.

[22] Letter No. 4858-G. 26-8-1909, from the Commissioner: "I agree with the views (of Mr. Melitus) regarding the gaonburas and I think we cannot do better to the system of election which was formerly in force in Sibsagar and Kamrup districts.

[23] Decentralization Commission Report. Vol. 5, p. 181, Evidence of P. R. T. Gordon.

represented to him that franchise for local boards should be extended. Bailey was inclined to do so but Kershaw the Secretary to Government in Local Self-Government remarked, "although the present system of the electorate is exceedingly restricted and excludes many who ought to have a voice in the election of rural members, it is doubtful whether Assam Valley is ripe for the introduction of anything in the nature of the system suggested and still more doubtful whether if it were introduced it would be anything more than a form." P. C. Lyons, the Secretary of the Finance Department did not agree with Kershaw. He suggested that the right to vote might be extended to persons paying Rs. 50 as settlement holders and Rs. 100 as landholders, title holders, gaonburas, pensioners drawing Rs. 50 per month and jotedars paying a rent of Rs. 250 per annum. Kershaw thought that the qualifications suggested by Lyons were pretty high. So no action was taken in this direction.

In 1912, Earle suggested that the right to vote might be extended to every male above the age of 21 resident or owner of property within the limits of the circle who paid a rate of at least Re. 1, income tax assesses, Government pensioners, mouzadas, mandals, members of panchayats, gaonburas, pleaders or muktiars.[24]

Henniker, the Commissioner of Assam Valley however pointed out the practical difficulties in the way of accepting the suggestion of Earle. The payment of Re. 1 as a qualification would extend franchise too widely. There was no readily available means of knowing the number of voters that would be created ; there was no register in Sylhet showing the person responsible for the payment of rate. Only after a laborious examination of chalan lists of every Tahsil, it might be possible to ascertain the names of individuals who actually paid the local rate. Even then, there was no guarantee that they were the real payers. They might have paid on behalf of the defaulting co-sharers. Indeed it would be possible for any person to manufacture a list of bogus voters by simply paying Re. 1 as tax. Again, there was no adequate machinery for the registration of

[24] L.S.G.-A. June 1913. Note by Kershaw; note by P. C. Lyons ; Note by Sir Archdale Earle.

voters. Then there were tenants and tenure holders. Government collected rates from the proprietors or landholders. A Patendar might be a persion of great importance, but he paid the rent to the superior landholder according to private agreements with which Governments had nothing to do. In view of these difficulties. Henniker said that the time had not arrived for the extension of franchise to all persons who paid Re. 1. He suggested that the tax qualification should be fixed at Rs. 25. He also pointed out that an invidious distinction was made between pleaders and members of other professions when franchise was extended to the former and not to the latter. In view of these objections. Earle did not proceed further.

In 1915, payment of land revenue or the local rate as the basis of the right to vote was again suggested. But it was rejected on the ground that it would not be possible to obtain accurate information of the revenue and rate-payers in the permanently settled areas of the province. So three classes of voters were brought into existence for the election of the members of the local boards. First, voters to elect members to represent the residents of the head-quarters town. They were the persons who were entitled to vote at municipal elections. Where the Municipal Act was not in force, the following persons had the right to vote—males who had resided in the town for a period of not less than twelve months immediately preceding the election and paid a sum of not less than Re. 1 on account of local rate in respect of land in the previous financial year or paid an income tax and those who passed the Intermediate examination of a university.

The second class of voters were those who elected the mercantile member. They were the income tax assessees. The third class of voters were those who were to elect the rural members. The third class of voters could be sub-divided into three categories, members of the choukidari panchayats in the districts of Cachar, Sylhet and Goalpara, members of the village authorities in the areas where village authorities were constituted and gaonburas in the districts of Darrang, Kamrup, Sibsagar and Lakhimpur.

What was the extent of franchise under the Local Boards Act, 1915? The 19 local boards in the province consisted of 300 members, of whom 208 were elected. Of them 126 were

Indians. 19 of the 126 represented the headquarters towns ; another 19 represented the mercantile community and the remaining 88 represented the rural areas. The voting strength of each community was as follows :—

19 headquarters members were elected by 9,066 voters.

19 mercantile members were elected by 2,554 voters.

88 Rural members were elected by 10,000 voters.

Thus, the 126 members were elected by 21,680 voters. The population of Assam in 1920 was six millions. So the percentage of voters to the total population was only 0.36. It is thus clear that franchise was absolutely restricted. There was therefore an agitation for the extension of franchise. The Gauhati Local Board demanded that the members of the local boards should be elected by the members of the village authorities wherever they were established.

In 1920, steps were taken to liberalise franchise. The right to vote was extended to all those who were voters for the election of members of the Assam Legislative Council. In other words the voters' list of the Assam Legislative Council was adopted for the local government elections also, provided the voter had resided in the circle concerned for at least 12 months or had paid a local rate of Re. 1 in the sub-division. Since then all those who had the right to elect members of the Legislative Assembly were given the right to vote. In 1953, adult franchise was introduced.

In the case of panchayats, under the Act of 1926, adult males above the age of 25 had the right to vote. In 1948, the sex disqualification was removed and adult franchise was introduced. At present the electoral roll of the Assam Legislative Assembly has been adopted as the electoral roll for panchayats. But the right to vote is however subject to certain limitations. First, no persons shall be a voter in more than one gaon sabha ; second, no one shall exercise his franchise more than once even though his name might have been entered in more than one constituency of the gaon sabha.

To sum up, in the municipal areas, there is no adult franchise though it exists in the rural areas. Comparatively the citizens of the urban areas are more enlightened, more progressive and liberal than the residents of the rural areas and yet a discrimination has been made in favour of the rural folk.

Further, the adult population in the urban areas have the right to elect members of the Legislative Assembly and of Parliament but they are denied of this right in regard to the election of members of the municipal boards. The basis of this discrimination is inexplicable.

We have so far considered the qualifications of the Indian voters. We shall now consider the qualifications prescribed for the voters of the planter's constituency. Here again, property was the basis of the right to vote. Only those who held a certain amount of land had the right to vote. In 1882, the Chief Commissioner suggested that each estate manager should have the right to vote. Later on, each manager or planter was given a number of votes according to acreage of the tea garden cultivated by him. No planter whose garden was less than one hundred acres was entitled to vote. But every planter the acreage of whose garden was more than one hundred acres was given one vote for every 100 acres upto 1000 and one more for every 250 acres from 1001 to 2000 and again one more vote for every 500 acres from 2001 and above. In other words, a manager whose garden was 2500 acres would get 10 plus 4 plus 1=15 votes. In 1904, Ramfylde Fuller thought that the qualifications prescribed for the voters of the planters constituency might result in squeezing the square planter. That is, the qualification based on the acreage of the garden cultivated seemed to him to have been devised with a view to increase the influence of the big companies. So he laid down that each garden with an area of more than 100 acres but less than 500 should get one vote, two votes for every garden with more than 500 but less than 1500 acres and three for gardens with more than 1500 acres. These qualifications were continued even after the enactment of the Local Boards Act, 1915. But only Superintendents and managers of special estates were entitled to vote. The Assistant manager in separate charge was considered as a manager. If the superintendents exercised the right to vote the manager subodrinate to him was not entitled to vote, in respect of the same estate. Thus even in 1915 the planters' constituency continued to be a pocket borough. The minimum acreage fixed to entitle a planter to the right to vote also indicates that it was done with a view to eliminate small planters who were mostly Indians. In 1920, all those who had the right to elect members of the Legislative

Council to represent the planters' constituency were given the right to vote. This was continued till 1950 when special representation to planters was abolished.

As regards the qualifications of the candidates they were the same as those prescribed for members which we had already considered in the previous chapter.

Preparation of the electoral roll : In 1883, the procedure for the preparation of the electoral roll was very simple. The district magistrate after due enquiries prepared the municipal electoral roll. It was corrected from time to time and thoroughly revised just before the general elections. At least six weeks before the date fixed for general election a copy of the register was published. Any person whose name did not appear in the register and who claimed the right to vote could apply to the Magistrate for the inclusion of his name. Any person who considered that a name ought not to have been included but included could write to the Magistrate for its exclusion. The magistrate should consider all such objections and decide them. The register thus amended was final and those whose names were entered in it had the right to vote. This arrangement remained in force throughout the period under review. In 1960, a slight alteration was made in the existing rules. The preliminary electoral roll should be published sixty days and the revised register thirty days before the date of election. After the publication of the preliminary electoral roll the chairman has to inform the public of its publication of the preliminary electoral roll so that objections and claims may be preferred. The Magistrate must hear and decide all such objections and publish the revised electoral roll thirty days before the date of election.

As regards the preparation of the electoral roll for local boards, there was no electoral roll prior to 1915 except for the planters' constituency which was prepared by the district magistrate. At least two months before the date fixed for the election, the presiding officer who was the magistrate prepared the list of voters in his sub-division.

The list of voters to elect members to represent the headquarters and the mercantile community was prepared by the Deputy Commissioner. It had to be published at least six weeks before the date of election. Any one could raise any

objection before the Deputy Commissioner whose decision was final.

In the preparation of the electoral roll, the D.C. had to observe two principles. No persons who did not possess the prescribed qualifications should be registered and no person should be registered in more than one place. But a person possessing qualifications in two local board contituencies should be registered in both the places. In municipal areas a person possessing qualifications in more than one ward should be registered in the ward in which he ordinarily resided and spent a major part of his lifetime. This rule was based on the assumption that a voter was primarily interested in the ward in which he lived and therefore best qualified to select the right type of men from that ward to represent him in the council.

At present the electoral roll for the election of members of panchayats is prepared by the magistrate.

The electoral roll was prepared in the chief vernacular of the region and arranged alphabetically and numbered in one series for each electoral unit giving particulars of each elector.

There is no evidence to show that there was a deliberate attempt to manipulate the electoral roll. There were no doubt omissions and commissioners but they were not of such a magnitude as to affect the results of elections.

Procedure : The first step in the election of members of municipal boards was the publication of a notice at least six weeks before the date fixed for the poll, stating the number of vacancies to be filled, the circles or wards in which elections would be held the dates on which and the place at which the nomination papers should be presented and the date on which they would be taken up for scrutiny and the date on which poll would be held.

The second step was the personal declaration—the filing of nomination papers by candidates. Each candidate had to be proposed and seconded by two electors. The nomination had to be signed by the proposer and the seconder and had to be presented to the election officer either by the candidate in person or by the proposer and the seconder together on or before the date prescribed. The candidate had to write the nomination paper in his own handwriting. The names of the candidates were published in each ward for public information. These

rules remained in force from 1883 to 1924 when there was a slight change in the procedure. The nomination paper had to be presented fifteen days before the date of election to the magistrate.

Now let us consider the procedure prescribed for the election of members of local boards. It varied from place to place. As we had already noted the elective system was introduced in three districts, Kamrup, Sylhet and Sibsagar. In the sub-divisions where elections were to be held, the Deputy Commissioner had to constitute a committee for verifying the qualifications of the candidates. The committee consisted of an official and four independent respectable Indians. It had to prepare a list of candidates from among the applicants possessing the requisite qualifications.

In practice, this direction was not observed in Sibsagar. (see page 246). In Kamrup a slightly different procedure was adopted for the selection of members. The Deputy Commissioner Kamrup and his assistants visited each mouza, assembled the ryots and enquired of them as to whom they wished to elect as their representative. That is, all the candidates were required to meet the Deputy Commissioner or his subordinate officer at the place of election in the interior of the district. The Deputy Commissioner did not know as to who would come forward as candidates till the date of election. Every candidate had to be proposed and seconded by a respectable inhabitant of the circle.

The Sub-Divisional Officer, Nowgong held elections at each Thana and outpost. On the appointed day a few respectable people of the Thana assembled and after consultation with them a suitable person was selected. This procedure was observed till 1938 when the present procedure was adopted. At present the candidates will have to file nomination papers before the Deputy Commissioner. Each nomination has to be proposed and seconded by two electors in the constituency concerned. The candidate should select a symbol. The Deputy Commissioner should reject all nominations which are not in order. But before rejecting a nomination he must give an opportunity to the candidate to state his case. He should also see that the symbol selected by the candidate is in order. The candidate for membership in the gaon or anchalik panchayat should file nomination paper before the Magistrate. The nomination paper

should be signed by the candidate and a voter must propose his name. It need not be seconded.

One of the peculiarities in the procedure was that the candidates were not required to deposit a certain amount to eliminate frivolous candidacy. It was in 1964 that this rule was laid down. The deposit is forfeited if the candidate does not poll 1/8 of the total number of votes polled.

While accepting the nomination paper, the Magistrate must see that the candidate did not suffer from any of the disqualifications prescribed by the Act. As a matter of fact the Magistrate must assist the candidate in the presentation of nomination paper.

Nomination papers are scrutinised by the Magistrate on the prescribed date. The candidates or their agents may be present at the scrutiny. The Magistrate should give all facilities to the candidates or their agents to raise any objection and reject the nomination of any candidate who is suffering from any one of the disqualifications. He should not reject the nomination paper on technical grounds. The reasons for rejection must be substantial. The decision of the Magistrate is final. Provision should have been made for a right of appeal against the rejection of nominations on frivolous grounds.

Immediately after the scrutiny of the nominations is over the magistrate should inform the candidates whose nomination papers have been accepted. Any candidate may withdraw before the prescribed date. A candidate who withdraws from a contest is not permitted to cancel his withdrawal. The magistrate should publish a list of the contesting candidates in the language of the region. The same procedure is followed at present for the election of members of gaon panchayats with slight variations.

Unopposed Returns : When offices were unpaid and unattractive it was difficult to get enough men to file nominations for membership of the local authorities. Even today, despite the rise of the leftist parties, many candidates find themselves unopposed in elections. Thus, often office has to seek the man. Such elections are known as uncontested elections. If the number of candidates nominated is not more than the number of vacancies to be filled up no poll is held and all such persons are declared to have been elected. If, however, the number of eligible candidates is less than the number of vacancies to be

filled up the magistrate must declare such candidates to have been elected and start the election proceedings again for filling up the remaining vacancies. Even if at a second election, no eligible candidate comes forwarded to file a nomination Government is authorised to fill up the vacancies by nomination.

Poll : Although, there were many cases in which office had to seek the man, in urban areas it was common for a number of candidates to contest elections. The main reason for contested elections in the urban areas is the existence of a great diversity and conflict of interests. Therefore, there is competition between vested interests. Further, municipal election gives the candidate an opportunity to advertise his business or to advance himself in other ways. It is also the means by which one enlarges ones acquaintance profitably even though the chances of being elected may be remote. Finally, in order to maintain its standing and prestige, each party puts forward a fairly complete slate of of candidates for each election. Whatever may be the reason there is contest in the urban areas. If the number of candidates is greater than the number of seats available poll must be held.

Method of Voting : The method of voting differed from time to time and from one local authority to another[25].

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[25] In Gauhati in 1880 voting papers containing the names of candidates were supplied to each vote. The voter signed the ballot, mentioned the name of the candidate whom he desired to be the commissioner for his ward and returned the ballot paper to the chairman of the municipal board before the prescribed date. The chairman scrutinised the ballot papers, counted them, and published the result. In case of equality of votes, the chairman decided which candidate should be appointed. In some places, the tie was decided by the casting vote of the chairman.

In Sibsagar a different procedure was adopted. The voters were directed to go to the municipal office to record their votes. In Silchar, ballot papers were sent to the voters seven days before the date of election. The result was that some of the voters handed over the ballot papers to their friends to fill them up as they pleased. In some other places as in Sylhet the chairman convened a meeting of the rate-payers in each ward at a convenient place and recorded the vote of each voter in a register and declared the result. In Shillong the poll was informal. The rate-payers belonging to each important community were invited to select two persons of their number and Government selected one of them.

The successful candidate had to receive the approval of Govern-

In 1924, Government laid down uniform rules which secured secrecy of ballot. The municipal board was authorised to conduct the election. The board appointed one of its members as a presiding officer who was assisted by a committee. Each ward had a committee consisting of five members. There was a separate committee for ladies. Each voter was supplied with a ballot paper. He placed a cross mark against the name of the candidate for whom he wanted to vote, folded it up and placed in the ballot box.

As regards local boards, A. C. Campbell, Deputy Commissioner, Kamrup suggested the method of acclamation. That is, the Deputy Commissioner and his Assistant would visit each mouza, assembled the ryots and enquired of them as to whom they desired to vote. The public of Sibsagar and Jorhat demanded election by ballot. That is, the Deputy Commissioner should prepare a list of candidates and place it before the electorate. The Chief Commissioner thought that poll would not be possible in some districts. "Acclamation is the natural expression of the popular choice in such a stage of society" as Assam, wrote the Chief Commissioner, "and if the temper of the people can be unmistably elicited in this manner without giving an opening to any charge of undue official influence, it would be the most satisfactory mode of election which could be applied."

In 1883, the following procedure was followed in the Kam-

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ment. If Government did not approve the election, another election was held or the vacancies were filled up by nomination.

In 1919, the Gauhati Municipal Board appointed a committee to frame rules providing voting by secret ballot. The committee laid down the following procedure for the conduct of elections. There should be a committee of three members to conduct the elections. One of them would be the scrutinising officer and the other two polling officers. The scrutinising officer would be provided with the list of voters. The voter must first approach the scrutinising officer and find out whether his name was in the list. Then he should go to the polling officer and obtain a ticket of any colour and place it in the box. Before depositing the ticket he must enter his name on it.

Even this system was defective because there was no secrecy of ballot. The polling officer knew to whom the voter was casting his vote. The candidate also knew who voted for him because the ballot papers contained the name of the voter. The result was that several voters did not exercise their franchise.

rup district for the election of members. The voters were assembled in separate enclosures allotted to each mouza and their qualifications were ascertained. Sometimes this was done with reference to the patta registers brought by the mouzadar or mandal. This procedure was not only tedious but also facilitated corrupt practices. Unauthorised persons got into the enclosures by scaling the temporary railings. These attempts were however, checked and scrutiny was carried out. Thus, the method of voting was open voting and it was conducted in camp by the Deputy Commissioner or his assistants in each circle. In Sibsagar and Sylhet the same practice was adopted. This procedure was continued till 1915.

In 1915, a different procedure was adopted. The members of the village authorities, gaonburas and members of the choukidari panchayats were required to meet at convenient places within the circle for the selection of members. After the election was over the presiding officer informed the successful candidate of his election. If the successful candidate was not willing to serve the candidate who got the next best vote was declared elected. For the election of the headquarters members the voters had to go to the office of the Deputy Commissioner to record their vote. Thus prior to 1938, voting was open and not by ballot. In that year the ballot system was introduced. Each voter was given as many ballots as there were vacancies in the plural member constituency. He could cast all his votes in favour of one candidate or distribute them among the several candidates. If he wished to give all the votes to one candidate he had to deposit them in the ballot box of the candidate to whom he wished to vote. In case of equality of votes lots were drawn.

In 1960, detailed rules were issued for the election of the members of the Anchalik Panchayat and Gaon Pancayats, which are still in force. The Magistrate has to fix the date of election. Outside the polling station a notice specifying the polling area, the electors entitled to vote and a copy of the list of contesting candidates is published. Separate arrangements may be made for women voters to exercise their franchise.

The mode of voting at the panchayat elections was at first open voting. Separate encloures were set apart for each contesting candidate. At the entrance of each enclosure a board

containing the name of the contesting candidate was hung. The supporters of the candidates were shephered into the respective enclosures. Then the names of the voters in each enclosure were checked by reference to the electoral roll, and then votes were counted. As far as the mechanics of voting were concerned open voting is far better. The candidates stand up and the supporters stand behind the candidate of their choice. The supporters can then be counted in groups which is easier than the counting of hands. It also produces some element of second choice for the voter, for if he sees that his favourite candidate is not going to succeed he can go across and stand behind the candidate who is the second best. Above all, open voting is cheaper. Secret ballot will cost Government about Rs. 3.5 or Rs. 4 million.

Open voting, however, has its defects. *First*, if several hundreds meet together for purposes of election, all a little excited and some of them little accustomed to cannons of proper behaviour at meetings, it is extremely difficult to maintain order. *Second*, there is no freedom of voting. A landless labourer or a member of the Scheduled Caste may hesitate to express his opinion openly against a substantial cultivator to whom he may be under an obligation. *Third*, the system also aggravates group feelings because group preferences are openly expressed. *Fourth*, it brings into existence intimidation and dull poll. Many voters do not go to the polling both. As a matter of fact in the elections held in 1962, throughout the State, M.L.As. and M.Ps and members of local authorities did not exercise their franchise for the fear of incurring the displeasure of the contesting candidates. *Fifth*, it caused a good deal of physical suffering. Men and women were kept in the scorching sun in the open enclosures like cattle in a yard. Finally it resulted in the outbreak of violence and the consequent adjournment of poll. Out of the 1421 gaon panchayat elections held in eleven subdivisions in 1960-61, poll had to be adjourned in 201 places, because of the outbreak of violence. Finally, open voting aggravated local factions. So in 1964, it was abolished.

Procedure for the Election of Planters' Representatives : Prior to 1899, there was no uniformity in the method adopted for the election of members to represent the planters constituency. One month before the date of election, voters were informed of

the number of votes to which they were entitled and the list of persons who were eligible to contest elections. The actual conduct of elections, however, varied from place to place. In some places, one of the leading planters was requested to act as the returing officer who naturally conducted elections according to his whims and fancies. In some other places, he circulated a paper among the voters to record their vote. In Tezpur the local tea association elected a competent person to represent the planters' constituency.

In 1899, regulations were issued determining the mode of poll. The presiding officer informed each voter the number of votes which he had and the persons who were eligible to be elected as members. Every voter was entitled to record all or part of his votes in favour of any candidate he liked. He might vote for a less number of candidates but he had no right to cast in favour of any candidate a greater number of votes than to which he was entitled or vote more candidates than there were vacancies. For instance, Mr. Foster was a voter. He was entitled to five votes for each vacancy. There were six vacancies to be filled up. There were twelve candidates contesting the six seats. Foster might vote for six candidates because there were only six vacancies, giving each five votes or might vote for less than six candidates giving each five votes or less than five. He should not, however, give more than five votes to any candidate even if he voted only for one candidates. The voting was by post. In case of equality of votes, lots were drawn. The presiding officer communicated the result of election to the successful candidates and ascertained whether they were willing to serve as members of the local board concerned. If any successful candidates was not willing to accept the election, the unsuccessful candidate who recorded the next largest number of votes was declared elected. This procedure was continued even under the Local Boards Act, 1915.

In 1938, the plural vote system, each voter having more than one vote was abolished and every voter was given only one vote for every vacancy. Like the rural voters he had as many votes as there were seats to be filled up. He could however, give all his votes to one candidate or distribute them among the candidates. The voting was by ballot. This procedure existed till 1950, when the planters' contituency was abolished.

Impersonation : Provision has been made for challenging the identity of a voter. Any candidate or his agent may challenge the identity of a person who claims to be a particular voter. But whenever a challenge is made the candidate or his agent making the challenge must make a deposit. The amount of deposit varied from urban to local boards. The deposit is intended to check frivolous challenging. The presiding officer should make a summary enquiry and decide the matter. If the challenge is frivolous, the voter is permitted to vote and the deposit is forfeited. It may, however, be noted that this provision was not to be found till 1920.

Assistance to Voters : A problem of some interest is the devising of a satisfactory method of voting for a population containing a substantial number of illiterate voters. The simplest method of voting is a whispering ballot. Under that system the official in charge of the polliting station sits by the ballot box and as each voter comes in he is asked whether he would himself fill up his bollot paper or whether he would like to be assisted. In case assistance is sought the officer should ascertain from the voter as to whom he wished to vote and mark the ballot paper in accordance with his wishes. It is a very quick and a very easy way of disposing ot the illiterate voters. It is satisfactory provided there is a sufficient supply of officials who are honest and trusted by the people. Gauhati Municipal Board provided this kind of assistance in 1925. But there was a defect in the procedure prescribed by the board. The presiding officer was directed to mark the ballot according to the wishes of the voter but without the knowledge of the candidate. While it was intended to secure secrecy of ballot it was likely to encourage an unscrpulous presiding officer to mark the ballot paper according to his whims and fancies, and not according to the wishes of the voter. If the polling officer was a member interested in a particular candidate he may not mark according to the wishes of the voter. This had happened in the Madras Presidency.

Apart from this fact the existence of this provision may encourage unscrupulous candidates to practice intimidation and violence. The chairmen of the local authorities in the old Madras Province compelled the teachers in their employ to seek the assistance of the polling officer. The teacher voters went to

the polling officer declared themselves illiterate and sought his assistance. Thus, voters otherwise literate outside the polling booth became illiterate inside it. The provision for rendering assistance to voters not only frustrated the secrecy of ballot but also provided opportunities to practice fraud and violence. We do not have evidence to show that this had happened in Assam. However, another method was devised to maintain the secrecy of ballot. Each candidate was asked to adopt a pictorial symbol, a particular animal, bird, tree or anything that can be reproduced. In his election campaign he must get that symbol associated with himself in the minds of the electors. The illiterate voter is able to recognise the symbol of the candidate that he favours and puts a mark on the ballot paper against that symbol. If it is thought that putting a mark will create difficulties, then instead of having one ballot box there can be as many as there are candidates, each bearing the symbol of one of the candidates. The illiterate voter simply deposits the ballot in the box that bears the picture of the symbol. Obviously, the boxes must be placed in such a manner that no one can see to which box the voter goes. But then there is one danger. The voter may not actually deposit the ballot paper in the box. He may bring it out and sell it to the highest bidder. It may facilitate chain voting. This had happened in the old Madras Presidency prior to 1937. This can be avoided by the appointment of watchers.

If at an election proceedings of any polling station are interrupted by riot or open violence or by any natural calamity, the presiding officer should adjourn the poll and report immediately to the magistrate the circumstances in which he was compelled to adjourn the poll.

Immediately after the receipt of the ballot boxes, the presiding officer should count the votes and declare the result. In case of equality of votes the matter must be decided by tossing the coin.

Disputes: At all times provision was made for the decision of disputes. Prior to 1950, election disputes had to be referred to the presiding officer. If the presiding officer was not the Deputy Commissioner, any unsuccessful candidate could present a petition to him within one week after the declaration of the result. The decision of the Deputy Commissioner was final.

But no election should be invalidated when the rules were substantially obeyed or on account of any irregularity unless it was such that it materially affected the result of election. In 1936, statutory provision was made for the purpose. Under Acts IV and V of 1935, every election petition had to be submitted to the District Judge within twenty-one days after the declaration of the result. The petition had to be accompanied by a deposit of Rs. 50. The election petition however, could not question the correctness of the electoral roll. The District Judge might refer the matter to the subordinate judge for disposal. If the aggrieved party was not satisfied with the decision of the subordinate judge he might prefer an appeal to the District Judge whose decision would be final. The election could not be questioned in any other manner and no injunction could be granted to postpone the election, to prohibit a person declared to have been elected from taking his seat on the board or from taking part in the proceedings. The District Judge might set aside an election, might declare a candidate elected or disqualify a person from contesting elections for a period not exceeding five years. He may set aside an election on the ground that it was secured or was materially affected by corrupt practices or that it was not free or that the result of election was materially affected by any non-compliance with the provisions of the Act or the rules made thereunder. But, no election could be set aside if the candidate or his agent or any other person was guilty of any corrupt practice which did not amount to bribery other than treating.

In 1959, fresh regulations were framed under which an election petition could be filed before the munsiff having jurisdiction over the area within 30 days from the date of the declaration of the result on the ground that there were omissions, mistakes or irregularities in the proceedings. The election petition should be accompanied by a deposit. The munsiff after holding an enquiry could confirm, amend or set aside the election. If the decision of the munsiff was not satisfactory a revision petition could be filed before the district judge on points of law but not on points of fact. The decision of the district judge was final. These regulations are still in force.

Illegal Practices: The earlier Acts made no provision for dealing with illegal practices. Provision was made for the purpose for the first time in the rules framed under the Local Boards

Act, 1915. An election could be set aside if it was secured by inducing the voter to give or refrain from giving a vote in favour of any candidate by offering money or valuable consideration or by promising individual profit or by intimidation. Similar rules were framed under the Municipal Act also and they are still in force.

Percentage of Poll : As regards the percentage of poll there is variation from time to time. In some places, it was very good. In some other places it was poor. For instance the percentage of poll in the municipal elections in Sylhet in 1883 was 80. But it was 39 percent in the Sibsagar district in the same year. In the Kamrup district the candidates and the voters showed keen interest in the elections. Generally, however, the percentage of poll in the rural areas was poor. The only election in which there was a spark of interest was those in which Bengali pleaders were standing against the Assamese. The pleaders being educated men and of good position strove to win and sometimes rivalry arose. But in a majority of the cases, the whole business was a ridiculous farce. In one case neither the candidate nor the voters turned up at the appointed hour. Eventually, the candidate turned up. He was told by the Sub-Divisional Officer to bring at least ten voters. The candidate could not bring even one. The police were told to go into the village and collect some voters. The voters came. When they were asked to express their wish as to whom they would vote, they said that they did not want any representation at all because their representatives did not do any good to them. Thus, the attitude of the general public was one of supreme apathy.[26]

[26] In 1889-90, elections were held in six circles of the Gauhati Local Board. Of the 2510 voters only 672—less than 30 percent exercised their franchise. In Barpeta less than half of the total number of voters turned up to exercise their franchise. In 1891-92, elections were held in three circles of the Jorhat Local Board. Of the 989 voters only 261 exercised their franchise. In 1891-92, elections were held in seven circles of the Gauhati Local Board. The dates and places where elections would be held were widely advertised by mandals, gaonburas and through printed notices. In three of the seven circles there was no contest. In other pclaes, the candidates brought their own supporters. At Hajo the dalai secured the attendance of voters, though at Palasbari voters appeared to have come

Various reasons were given for the apathy of the public. It was said that there was some discontent with the administration of public works by the local boards. The cause of this general discontent is not far to seek. A fair proportion of the local rates was not applied to works in which Indians were interested. Too much attention was paid to European interests.

Critics also pointed out that the character of the people was partly responsible. Assamese were not like the Athenians who were accustomed to take lively interest in politics. They were like the Romans who left such matters to their betters. In general, the Assamese belonged to the middle class. They spent their time in the field and did not live in densely packed cities like Madras, Bombay and Calcutta. Mainly they were agriculturists. They had their own virtues of an agricultural class. They were not political men. The real end and aim of their life was to secure the moderate comforts of life. They belonged to the type which Sparta represented in Greece. They were not the explorers in the intellectual hinterland. They were not eager for new things. They were not men of intellect. They knew their wants and were satisfied if they could secure them. They had clear notions of the constituted authority. But they were not men of affairs. The critics therefore jumped to the conclusion that the Assamese were not the men to govern themselves and left the business of government to their betters who understood the traditions of the art. But they were always ready to obey.

This is a sweeping generalization with which the present writer cannot agree. Even if this was true it is not in any way peculiar to the Assamese. This is a common trait of most people in this country. Even in Madras, where people have had clear notions of their rights and obligations political apathy existed. Further, this trait may be attributed to centuries of autocratic rule of the Ahoms which annihilated public spirit. However all these traits are now passing away and the Assamese are now more than ever before contributing their share and doing their

from interest in the subject. At Luki and Chamaria, the attendance of voters was secured by the exertions of the Tahsildars. This was the kind of interest evinced by others in regard to elections throughout the period under review.

bit in the building up of a strong, prosperous and happy India, and in helping to shape her history and in developing her civilization.

Now the question is whether elections were free and fair? The lack of information on his point precludes any judgment. Although the present writer has consulted most of the records relating to local and municipal administration and the proceedings of the legislature, he has not found any discussion of this matter in any paper. It may therefore be presumed that there was no systematic impersonation, no deliberate manipulation of the voters list on a large scale and no illegal practices which materially affected many elections. So it may be said that elections were free and fair. Here the character of the people was responsible for the absence of frauds in elections. The Assamese in general are not litigous and cantankerous as the Andhras are. They contest elections in a sports-man-like manner. In addition to this the administrative machinery for the conduct of elections was well devised. The preparation of the electoral roll and the conduct of election of members of the rural boards were entrusted to the magisrate at all times. Above all, the rules issued by Government were fairly comprehensive. They were well understood by the common man.

CHAPTER XII

MEETINGS

The first duty of a newly elected municipal or local board is to meet, to be sworn into office and to organize. The date of the first meeting is fixed by Government.

Thereafter regular meetings are held as required by law. Special meetings may be called for by the Chairman or by a requisition signed by the specified number of members. The periodicity of the meetings of the local authorities depends upon the statutory provision in the Act, the size of the local authority and the nature and amount of business to be transacted. The principal purpose of the Rules framed for the transaction of business is to facilitate quick despatch of business.

Practically, the work of the board is mainly executive though there is a small amount of business that is legislative. Therefore, the chamber must be designed in such a way as to transact business effectively. Since the chairman will have to answer questions put by the members, it is convenient that he should sit facing the members. In order to help the chairman in his work, the principal officers of the board must be closer to him. The best arrangement is that the Secretary should sit by the side of the chairman or close to the chairman. So the present arrangement in some boards, the chairman sitting at the head of a long table and the members sitting facing each other is not conducive to the transaction of business. The best arrangement in bigger bodies appears to be the arrangement of seats in a semi-circle, the chairman and the vice-chairman sitting on a higher level, below the chairman, the principal officers of the board and at a lower level the members sitting round a circular table so that they may not exchange blows. This arrangement will enable the chairman to lean over and speak to officials. There is no need for the allotment of seats to members. Each local authority consists of a number of groups. Each group will sit together.

Law has laid the number of meetings to be held in a year. Municipal boards should meet once a month and as often as is

necessary. Special meetings should be held if a requisition signed by at least three members is handed over to the chairman or vice-chairman. The Municipal Act, 1876, did not provide the remedy for failure on the part of the chairman to call for a meeting requisitioned by members. The subsequent Municipal Acts however laid down that in the event of failure on the part of the chairman to call for a meeting requisitioned by the members within fifteen days, the members who signed the requisition could call for a meeting. If there was no business for transaction at the monthly meetings, the members were to be informed of the fact.

Under the Local Rates Regulations, the District Committee had to meet once in three months. Under the Local Boards Acts 1915 and 1953, the local boards had to meet once in two months. The members of the local boards could requisition a meeting provided the requisition was signed by at least a half of the total strength But the Local Boards (Amendment) Act, 1926, reduced the number of signatures to one-third of the total. Under the Panchayat Act, 1959, the Mohkuma Parishad should meet once in three months and the Anchalik Panchayat once in two months. The Secretary of the Anchalik Panchayat can call for meetings at any time. He should call for a special meeting if a requisition signed by one-fifth of the total number of members is handed over to him or if directed by the president of the anchalik panchayat or the Deputy Commissioner. Similarly, the Secretary of the Mohkuma Parishad can call for special meetings.

The Gaon Sabha should meet once in six months but the Gaon Panchayat must meet once in a month. The President should call for a meetings of the sabha if a requisition signed by one-fifth of the members of the sabha is handed over to him or if directed by the Deputy Commissioner.

In practice, the number of meetings held varied from time to time. Further, many a local authority did not hold even the statutory meetings.[1]

Again several municipal boards did not meet every month

[1] For instance, it was obligatory that the municipal board should meet every month. But the Dhubri, Sibsagar, Jorhat and Shillong municipal boards did not meet every month during the period 1885 to 1905.

during the period 1905 to 1950. The annual reports on municipal administration indicate that wholly inadequate number of meetings were held during the period 1850 to 1900. It was only after 1930 that most boards are holding monthly meetings.

As regards local boards, the minimum number of meetings that should be held in a year by each board was six. A comparative study of the figures for the whole period shows that at least fifty percent of the boards did not meet as required by law, even though they were directed by Government to comply with the legal obligation. Till 1925, at least half of the boards did not meet as required by law. After that date however, the boards met regularly.

As regards the gaon sabha, the Mehta Committee thought that it should meet at frequent intervals as it would be the basic agency for planning and for the administration of the development services at the village level. So the Panchayat Act, 1959, laid down that the gaon sabha should meet atleast twice in a year to consider the budget and the programme of the work for the coming year and for the assessment of the work done by the panchayat. But the intentions of the framers of the Act were not realised. So far, many gaon sabhas did not meet because the gaon panchayats are fighting shy in this matter. They argue that the functions entrusted to the panchayats are many and the funds allotted are so few that there was no need for their meetings. The argument is not convincing. Certain functions have been entrusted to the gaon sabhas which can be performed only by them. Above all, the meeting of the villagers is intended to develop the cooperative spirit. This purpose is being defeated by the refusal of the panchayats to call for meetings of the sabhas.

Quorum: Under the municipal Acts, 1850, 1864, and 1868 the quorum was three. Under the subsequent Acts it was one third of the total for all boards, both urban and local. All the local Acts prescribed a special quorum for the disposal of certain subjects. The quorum for the disposal of such subjects as the determination of the scales of pay of the officers and servants of the local authority, framing of bye-laws, approval of the budget estimates, the appointment and fixation of the scales of pay of the paid secretary, Engineer and Health Officer or assessor, election of chairman and vice-chairman and for floating loans

was half of the total strength. If at any time quorum was not present, the meeting should be adjourned. At the adjourned meetings, any number of members present, provided it is not less than three, exclusive of the chairman, formed the quorum so far as the local boards were concerned. As regards, the municipal boards, there must be at least two excluding the chairman. Under the Panchayat Act, 1959, it is one-third for the Anchalik Panchayat and Mohkuma Parishad. As regards panchayats it was half under the Panchayat Act, 1926, and one third under the subsequent Acts.

Medium: The medium used at the meetings for the transaction of business was at first English because a substantial number of members were officials and Europeans who did not understand the regional language. The Decentralization Commission recommended in 1912, that business in local authorities might be transacted in the language of the region. But Government did not accept the recommendation. If any member of the board did not understand English, the chairman explained the subject to him. It is, however, not clear how this would have been possible in the meeting particularly when the chairman himself did not understand the regional language. Since 1920, however, language of the region has been the medium for the transaction of business.

Minutes: The minutes of the proceedings have to be recorded in a register specially maintained for the purpose. A copy of the minutes of the municipal boards must be sent to the Deputy Commissioner for record. As regards local boards a copy of the minutes had to be sent to the Deputy Commissioner, the Commissioner and the Government. Under the Panchayat Act, 1959, a copy of the proceedings of the Gaon Panchayat must be sent to the Secretary Anchalik Panchayat in addition to the Deputy Commissioner and Government. The proceedings of the municipal and local boards must be published as directed by Government.

Voting: Voting was generally by show of hands of those present. Law did not permit voting by proxy. The Local Rates Regulation, 1879, laid down that a member must be present to participate in voting. In practice, however, voting by proxy was permitted both at the municipal and local board meetings. The members of the District Committee constituted

under the Local Rates Regulations would vote by proxy. The local boards constituted in 1882 inherited this practice. How did this practice come about? Travelling long distances was a hazardous task. In some districts there were no roads at all. Therefore attendance of members at the meetings was not regular. Hence proxy. But then proxy offended the statutory provision. Lt. Col. P. R. T. Gurdon the Commissioner of the Assam Valley, however, suggested the continuance of the existing practice of voting by proxy. So it was continued subject to the condition that no person should be appointed a proxy unless he was a member of the board.[2] As regards municipal boards it was not permissable and yet it was permitted in some boards. The member concerned should nominate another to proxy for him but the proxy letter had to be signed on a one anna postage and revenue stamp affixed on it.[3] At present voting by proxy is not permitted in any local authority.

Attendance: The average percentage of attendance of members of the municipal boards varied from 58 to 66 percent during the period 1858 to 1963. If we take the individual boards we notice violent variations. It was 46 percent in 1912 in some places and 82 percent in others. If we compare the Assam Valley with the Surma Valley, attendance was sometimes better in the former than in the latter. In some places, attendance was uniformly good.[4]

As regards local boards attendance was generally unsatisfactory throughout the nineteenth century for obvious reasons. First, want of good communications. One had to spend a good deal of his time and energy to travel long distances. Second, the medium for the transaction of business which was English

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[2] Letter No. 157 G. 81-1-1917 from Lt.-Col. Gordon.
Letter No. 3890 M. Shillong 29-5-1917.

[3] Proceedings of the Meetings—Golaghat, 25-9-1926. Ibid. Tezpur. 21-7-1909. This does not appear to be the normal practice. I did not find a similar practice in Shillong, Tinsukia, Dibrugarh, Sibsagar, Jorhat and Gauhati.

[4] For instance, the percentage was as follows:

	1911-12	1920-21	1931-32	1950-51
Hailakandi	18	70	81	77
Nowging	82	74	71	64
Shillong	60	54	71	58

was not understood by several Indian members. Since they could not follow the proceedings at the meetings of the board they evinced little or no interest in them. Third, the Indian members were the nominees of the Deputy Commissioner who combined in himself several functions, the chairmanship of the local board, the administration of civil and criminal law and the collection of revenue. In his presence, they had no courage to express their views freely and frankly. Since, they felt they had no independence of their own, they did not care to attend the meetings of the board. Fourth, most of the Indian members were pleaders or traders and had to appear before the Deputy Commissioner in their professional capacity. They therefore did not like to incur his displeasure by the expression of their views freely and frankly. Fifth, the planters and officials found in one another a community of interest and therefore acted together. The joint front offered by these two classes of persons reduced the Indian members to a position of non-entity. Lastly, Hindu members who would not travel on an inauspicious day.

We must also note that attendance of official members and of the representatives of planters was not in any way better.[5]

[5] Report.—Local Boards—1890-91, p. 4. In some boards like Dhubri, Habiganj, Silchar, several members never attended the meetings.

Ibid. 1890-91, p. 4. The attendance was extremely poor in Nowgong. The chairman of the Tezpur Local Board wrote as follows: "Nominated members rarely attend the meetings. Planter members had to travel long distances and naturally did not attend unless their interests were involved."

The chairman of the Goalpara Local Board wrote: "The members are generally residents of distant places and they do not care to travel long distances unless they have some other business to transact in the towns. The members who attend are indifferent to matters discussed in the meetings unless they refer to localities in which they reside."

The chairman of the Silchar Local Board wrote "The native members here take comparatively little interest as a rule in the proceedings though it was encouraging to see them apparently make up once or twice when matters under discussion interested them. One difficulty however, is that there are only two English knowing members so that everything has to be done twice over and as a rule, if the native members see any proposal is approved by the European members they simply acquiesce quietly."

Non-official attendance improved enormously since 1910. It was excellent in some boards.

It was very good in most places, particularly after 1910.

The reasons are several. *First*, the non-cooperation movement in 1920, and the Civil Disobedience Movement in 1930, started by the Mahatma roused national consciousness which induced the members to evince interest in the work of boards. *Second*, there was an enormous improvement in the communications and travel facilities. *Third*, the local boards consisted of a greater number of persons who could follow the proceedings in English. *Fourth*, the office of chairmanship became a

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Ibid 1887-88, p. 6. In Habiganj none of the European members attended the meetings of the local board.

In Sibsagar the European members did not attend the meetings of the local board regularly.

In 1939-40, non-official attendance was 79 percent whereas official attendance was just 27 percent. In four boards, it was below 20 per cent. It was generally low in the Assam Valley.

In some places like Tezpur and Mangaldai both official and non-officials Europeans and Indians attended the meetings some what regularly. ...

Comparatively non-official attendance was far better than official though there was general belief that it was poor. As a matter of fact, official attendance was generally poor and it was poorer since 1926. In some places official attendance was below 20 percent. It was sufficiently bad in Assam Valley. Non-official attendance was excellent in places like Dhubri, Goalpara, Gauhati, Barpeta, Tezpur and North Lakhimpur.

	For instance, Pereentage of attendance				
	1911-12	1920-21	1930-31	1940-41	1950-51
1. Dibrugarh	55	58	50	60	88
2. Sibsagar	47	60	55	53	98
3. Jorhat	66	70	58	79	85
4. Golaghat	25	43	60	65	91
5. Nowgong	73	75	57	68	81
6. Tezpur	66	49	55	77	12
7. Mangadai	49	64	54	61	74
8. Gauhati	68	67	74	80	78
9. Dhubri	39	51	84	86	70
19. Goalpara	45	55	77	81	89
11. Karimganj	55	57	70	71	78
12. Hailkandi	62	70	51	47	72

coverable position and ambitious politicians gathered round them a number of their supporters and secured their regular attendance. Finally, the elimination of the official element together with the representatives of the planters induced the members to take interest in the meetings of the board.

Official attendance was poor because the official members occupied an anomalous position. After 1926, they were only supernumarary members and as such they had no doubt the right to paricipate in the proceedings but no right to vote. That is, they had the right to advise but not to determine. Very often their advice was not accepted by the board. Further, many officials particularly the District Superintendent of Police and the District Engineer did not at all attend the meetings in some places. Above all, with the removal of the Deputy Commissioner as the chairman of local boards, there was no incentive on the part of officials to participate in the proceedings of the board. No wonder official attendance was very poor.

Now the question is whether the members of the boards displayed a sense of responsibility and patriotism. It must be said that some of them were patriotic and some of them were ultra-loyalists[6] Some of them displayed no sense of

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[6] Proceedings of the Gauhati Municipal Board. In 1921, the Gauhati Municipal Board refused to present an address of welcome to the Governor of Assam.

On June 25, 1925, it resolved to present an address of welcome to the Mahatma. The motion was proposed by U. N. Bezbarua and seconded by Wazid Ali. But it was opposed by S. K. Bhuyan and Tansukrai Serogi.

On December 12, 1926, a special meeting was called for to consider the proposal for the presentation of an address of welcome to the Mahatma but this time it was opposed by U. N. Bezbarua on the ground that the Mahatma was not in an way connected with municipal administration.

On September 26, 1932, the Gauhati Municipal Board resolved to send a cable to the British Prime Minister for the immediate release of the Mahatma.

On January 2, 1926, the Gauhati Municipal Board met to consider the invitation of the Commissioner to the chairman requesting him to be present at Amingaon on the 4th to receive His Excellency the Viceroy and the Governor General of India. K. R. Burman tabled an amendment that the chairman should be given full discretion to accept or reject the invitation. S. K. Bhuyan, U. N. Bezbarua and P. K.

responsibility. So it is difficult to give a categorical answer to this question. Most members, however, appear to have acted with a sense of responsibility.

Gupta tabled another amendment that the chairman must accept the invitation and be present at Amingaon to receive the Viceroy. The amendment was carried by a majority of one vote.

In 1925, Queen Alexandra died. The Gauhati Municipal Board at the instance of S. K. Bhuyan and K. C. Sen condoled the death. On September 30, 1920, there was an interesting discussion in the Dibrugarh Municipal Board in regard to the presentation of an address to Governor-General of India. Parasuram Khound and Nilambar Dutta suggested that an address of welcome should be presented by the public. Sadananda Dowera and Nilmoni Phukan said that the municipal board should present an address of welcome to the Governor-General provided it sanctioned the necessary expenditure.

On 31-3-1937 a similar subject came up for discussion—presentation of an address to the Governor of Assam. R. K. Barua said that no address should be presented to him on the ground that he allowed Sir Muhammad Saadulla "in whom a large section of the people have no confidence since the scandalous revelations in the course of the trial of the well known Kolaghat opium case, to form the ministry." But Sadananda Dowera proposed that an address of welcome should be presented to the Governor so that grievances might be brought to his notice.

Most members—eminent in several ways were ultra-loyalists.

It must also be said that several members did not display a sense of responsibility. On June 9, 1925, the Gauhati Municipal Board considered the appointment of Superintendent Water Works. The then Superintendent, Mr. Jones applied for extension of his term provided the board was prepared to pay him a salary of Rs. 350 per month. The Board declined to extend the term of Jones, and resolved to appoint L. N. Das M.Sc. in Physics as Superintendent, on the ground that "he was not only a native of the Province but also an inhabitant of the town, possessing sufficient knowledge and talents in regard to machineries." The board did not realise the fact that L. N. Das had no knowledge of water works. On June 20, the board committed a somersault when it resolved to retain Mr. Jones for six months on a monthly salary of Rs. 350 and that during this period L. N. Das should work under him and acquire experience. After six months training, Das should satify the Executive Engineer that he was sufficiently qualified to be the Superintendent of water works.

Here is another instance. In 1958, the Gauhati Municipal Board contracted a loan of Rs. 105 lakhs for the financing of water works scheme without making any detailed study of it. It appears, that the chairman himself was ignorant of the details of the scheme.

Disorders: When men of different temperaments meet there is bound to be heated exchange of words which may create disorder in the house. Generally they were very few but in some places the proceedings were marred by the disorderly behaviour of some members. Such behaviour induced the board to suggest the removal of the erring member.[7]

[7] Proceedings of the Municipal Boards, Dibrugarh and Jorhat. On two occasions the Dibrugarh Municipal Board resolved that one of its members should be removed from the membership of the board as in its opinino his continuance in office was dangerous to peace and order and would bring the administration into contempt. Such disorders took place in Jorhat also. However, they were few and far.

CHAPTER XIII

THE COMMITTEE SYSTEM

It may be possible for panchayat boards to transact business fairly effectively at their meetings without having the assistance of committees. This is not possible even in major panchayats let alone the municipal boards, where the volume of work is definitely greater. It, therefore, follows that it is practically impossible for local and municipal boards to function effectively without the committee system. As a matter of fact, the committee system is the most distinctive feature of local administration in all countries where a strong system of local government exists.

Local government committees are appointed for two purposes, though separate but inter-locking purposes. A committee may be appointed to examine a particular subject in great detail and make recommendations thereon so that the board may make a decision. This is not possible if the entire board is entrusted with the responsibility for the investigation of the subject. Local government committees are made use of extensively for this purpose. This is the most common function of the local government committees.

The second purpose for which the committees are constituted is the administration of particular service with delegated powers. In this respect they are the agents of the board. In Assam, this is not a common function of the committees constituted by the local authorities, though this is their most common function in some states like Andhra and Madras. In some places the entire administration is carried on by committees and the boards concern themselves with the consideration of the reports submitted by the committees.

Local government committees are of two kinds, statutory and non-statutory. Statutory committees are those which the local authorities must appoint for particular subjects, All matters relating to these subjects are first referred to the committee concerned before they are considred by the board. Non-statutory

committees are those which are formed at the discretion of the local authority concerned.

In Assam all the local Acts left the formation of committees to the discretion of local bodies with a few exceptions. The Municipal Acts 1850, 1864, 1868 and 1876 provided for the appointment of committees. The Act of 1876 also provided for the formation of ward committees consisting of three members. The ward committees were territorial and not functional in character. But the Bengal Municipal Act, 1884 was silent on this subject though it provided for the appointment of joint committees exercising delegated powers. Though there was no explicit provision in the Act for the appointment of other committees, municipal boards appointed them. Many of them were adhoc committees to deal with particular subjects for a particular period The Municipal Act, 1923, and 1956 however, authorised the municipal boards to appoint and delegate powers and functions to them. The committees may consist of such number of members as are necessary.

The distinctive features of the Acts in this regard are, *First* they provided for the cooption of outsiders. *Second* they provided for the formation of joint committees consisting of representatives of more than one local authority. *Third*, they compelled the municipal boards to appoint an Assessment Review Committee to hear applications for the review of the assessments fixed by the local authority.

As regards local boards, they had some kind of committee system since 1880. Under the Local Rates Regulations, the District Committee had to appoint two sub-committees, the Roads and Works sub-committee and the school sub-committee to deal with the detailed management of public works and public instruction. The members of the committees were also authorised to constitute sub-committees.

In 1883, the Chief Commissioner directed the local boards to appoint three committees, one for public works, another for schools and a third for dispensaries and vaccination, consisting of outsiders if necessary.

Under the Local Boards Act, 1915, the local boards could appoint committees to deal with such subjects as finance, education, public works and public health. They could appoint committees to deal with all matters, pertaining to a particular region. These committees were known as General Committees. Besides

the general committees, the board could appoint adhoc committees for a definite purpose. The adhoc committees were dissolved immediately after the purpose for which they were constituted was over.

Where compulsory elementary education was introduced the local authority should appoint an education committee for the said area or separate education committees for separate portions of the area. Again, it was also obligatory to appoint a committee to supervise the management of dispensaries both civil and veterinary maintained by it.

Under the Panchayat Act, 1959, the Anchalik Panchayat and the Mohkuma Parishad have complete discretion with regard to the formation of committees. The mohkuma parishad may constitute standing committees for the scrutiny of the budget estimates of the anchalik panchayats and for the coordination and supervision of the work of the anchalick panchayats.

The Study Team on Panchayat Raj, Assam, 1963, recommended that the Mohkuma Parishad should have certain statutory standing committees; a committee on Planning and Administration consisting of the Deputy Commissioner as its chairman, all district and sub-divisional officer of the Development Department and representatives of the Mohkuma Parishad. This committee would take over the functions of the existing sub-divisional Development Committee which should be dissolved in the plain districts.

The Team also recommended the constitution of an Agricultural and Production Committee for the coordination of and planning of the activities of all departments concerned with agricultural production, consisting of the Deputy Commissioner as chairman and all the district and sub-divisional officers of the departments concerned with agricultural production and some of the members of the mohkuma parishad. It also recommended the constitution of a committee on Finance to scrutinise the budgets of the anchalik panchayats with a non-official as its chairman and Secretary of the Mohkuma Parishad as its member-secretary. All these recommendations were given effect to by an amendment to the Panchayat Act, 1959.

As regards Panchayats, the earlier Acts did not provide for the constitution of committees. The Panchayat Act 1959, however provided for the constitution of committees by the gaon

panchayats. It is obligatory on the part of the panchayats to appoint a committee for administration and planning.

From the above, it is clear that there were few statutory committees, the Taxation Revision Committee for the disposal of appeals against the assessment fixed by the municipal board, the administration and planning committee for the recruitment of personnel. Otherwise, the local authorities, both urban and rural, had complete freedom to set up any committee they liked. As a consequence, the appointment of committees by local authorities, both urban and rural, had complete freedom to set up any committee they liked. As a consequence, the appointment of committees by local authorities was haphazard.

Joint Committees: The earlier Municipal Acts, did not contemplate the constitution of joint committees. But municipal legislation subsequent to 1876. provided for the establishment of joint committees consisting of representatives of more than one local authority for any purpose in which they were jointly interested. Neither the Local Rates Regulation nor the Local Boards Act, 1915, provided for the constitution of joint committees. But the Local Boards Act, 1926, and of 1953 provided for it. The Panchayat Act, 1959, does not provide for the constitution of joint committees by the Mohkuma Parishad.

Provision was also made in the Panchayat Act, 1926 for the constitution of joint committees. A village authority could join other local authorities and appoint joint committees for any purpose in which they were jointly interested. Under the panchayat Act, 1948, two or more Panchayats or a panchayat and any other local authority could appoint a joint committee for any purpose in which they were jointly interested. But no provision is made in the Panchayat Act, 1959 for the constitution of joint committees by panchayats.

Size: Generally, the size of the committees was determined by the local authority at the time of its appointment Sometimes the rules framed under the Act prescribed their strength, For instance, the rules framed under the Assam Local Rates Regulation, 1879, fixed the strength of the sub-committees at six. The joint committee constituted under the Local Boards Act, 1926 and 1953 and under the Municipal Act, 1923 could consist of not more than two members from each constituent unit. The strength of other committees varied from time to time and also

from place to place. The strength of the assessment committee was five and that of the education committee not less than five and not more than nine.

Composition: The composition of the committee was sometimes determined by the local authority and sometimes by the Act concerned. For instance, the Municipal Act, 1956, laid down that the Assessment Committee should consist of the chairman and the vice-chairman as ex-officio members. Similarly, the Education Committee constituted under the Education Act, must consist of the representatives of the minority communities.

The president and secretary of the gaon panchayat and the president and secretary of the anchalik panchayat should be members of all the committees constituted by them. The other members should be elected by the panchayat concerned. The committee for Administration and Planning should consist of the President of the gaon panchayat who shall be its chairman the person representing the gaon panchayat in the anchalik panchayat and two other members selected from among the members of the panchayat. The Civil Surgeon is the ex-officio member of the dispensary committee. The Medical Officer or an employee of the local board ought not to be a member of the committee.

Government could interfere with the discretion of the local authorities in regard to the composition of the committees. *First*, it could prescribe the proportion of members of the committee that ought to belong to a particular community. Where such direction was issued the board must first elect the required number of members from the community concerned. Further, the Deputy Commissioner could interfere with the composition of the Dispensary Committee if adequate representation was not given to the minority communities. Or he himself could nominate persons to represent them. But for these limitations the local authorities have complete discretion to determine the composition of the committees

Cooption: Generally the membership of the committee is restricted to persons who are already members of the local authority. Sometimes persons who are not members are coopted. Cooption is of two kinds, statutory and non-statutory.

The basis of cooption is that there is a reservoir of knowledge and public spirit in persons who are not members and who

are not prepared to submit themselves to the grilling of an election campaign. The contribution they make to the promotion of human happiness is to less valuable than that of the elected members. Nay, sometimes they render greater service. So cooption enables a local authority to exploit this reservoir of knowledge and public spirit. Cooption has also another virtue. It links up the local authority with other associations which are engaged in rendering social service. That is, the local authorities may have on its committees some of the members of the voluntary associations who are experts and thereby coordinate the work of the associations and that of the committees. Above all, the presence of some on the committees who have expert knowledge will have a tremendous effect on the collection of dunderheads, and nincompoohs who generally constitute a majority.

So provision has been made in all the local Acts for the cooption of members. The earlier municipal Acts did not provide for cooption. It was provided for the first time by the Municipal Act, 1923 but it did not prescribe the number of outsider that could be coopted. It is the Municipal Act, 1956, that laid down that the number of outsiders should not exceed one-third of the total strength of the committee. The Local Rates Regulation, 1879, did not contemplate the cooption of outsiders by the District Committees. But the Local Boards Acts, 1915, and 1953, authoritiesed the local boards to coopt residents of the sub-division who are not members of the board. Like the Municipal Act, 1923, it did not prescribed the number of outsiders that could be coopted. The rules framed under the Act, however, limited it to one-third of the total strength of the committee. Under the Panchayat Act, 1959, the anchalik panchayat is permitted to coopt persons who are not members. The Mohkuma Parishad and gaon panchayat had no power to coopt outsiders under the original Act of 1959. In 1961 the Act was amended and they are at present permitted to coopt outsiders.

It has been sometimes argued that it is not democratic to allow non-elected persons to sit on the local government committees. The answer is that democracy surely does not require every person in public life to be elected. It is sufficient that the elected element must prevail. To safeguard democracy certain conditions may be imposed. The proportion of coopted members should not exceed one-third and they should not be entitled to be the

chairman of the commtitees. The committee consisting of coopted members should have no power to levy and collect taxes or to appoint local government personnel, to revise assessments or to undertake the construction of public works. Further, cooption should be by an absolute majority of the total strength of the board and the coopted members should not suffer from any of the disqualifications prescribed for the members. Finally, cooption should be limited to certain classes of persons such as women and experts who will prove to be an asset to the committee.

Though cooption was permitted it was not compulsory. It was left to the discretion of the local authorities. As a consequence, several local authorities did not make use of cooption. This was due to the unwillingness on the part of the elected members to share power with outsiders. Further, where cooption was made use of, adequately qualified persons were not coopted. Above all, the status accorded to the coopted members was not equal to that of the elected members.

Term of Office : The general rule is that a member of a committee holds office as long as he continues to be a member of the local authority. A member of a committee elected as chairman of the local authority automatically vacates his seat on the committee as he will become an ex-officio member of the committee. The coopted members hold office until the next general elections. These were the general rules to be observvd but there were exceptions.

The Local Acts permitted the local authorities to determine the term of office of the members of the individual committees. Taking advantage of this provision some of the local authorities fixed the term of office of some committees at a shorter period than the normal life of the board. But the remarkable fact was that some local authorities did not fix the term of office of several committees and the members of such committees continued to function for an indefinite period provided of course they continued to be members of the local authority. The members of the General Committee constituted under the Local Boards Act, 1915, continued to function until a new committee was constituted. So also the members of the standing committees constituted by the mohkuma parishad under the Panchayat Act 1959. The term of office of the members of the Education Committee was three years from the date of appointment. But a person elected in the

casual vacancy held office during the remainder of the term of the members whom he is replacing. The members of the committees are eligible for re-election any number of times.

Meetings of the Committees : The number of meetings that should be held by each committee is determined by the local authority constituting the committee. But it appears that the committees met irregularly. It is also true that some committees were required to meet at stated intervals. For instance, the Water Supply Committee of the Gauhati Municipal Board was required to meet once in four months, the Finance Committee once in a year. But there were committees which did not meet at all. The law sub-committee never met at all. The Development Committee and the Rickshaw Committee of the Gauhati Municipal Board never met during the period 1956 to 1962. The Sanitation Committee met after long intervals. Of all the committees the public works committee met somewhat regularly for obvious reasons. The education committee should meet once in a month but it met as and when it pleased. So it may be said that the meetings of the committees were not regular.

Quorum : The quorum for the meeting is also determined by the local authority concerned. The quorum of the public works committee of the Gauhati Municipal Board was three years, water works committee four, and the assessment committee three including the chairman or the vice-chairman or both.

Powers and Functions : The powers and functions of the local government committees are of two kinds, statutory and non-statutory. The first are determined by Government, and the second by the local authority concerned. Sometimes, the statutory functions are enumerated by the Act or by the rules made thereunder. For instance, the Municipal Acts, 1923 and 1956 laid down that the assessment revision committee should hear and dispose of the petitions for the revision of the assessments fixed by the chairman. The decisions of the committee are final. The municipal board cannot interfere with the discretion of the committee.

It was the duty of the education committee to enforce the provisions of the Elementary Education Act in regard to attendance at schools and the employment of children and to obtain and keep a record of such information as may be necessary for

the purpose. It must prepare a list of chlidren resident within its area belonging to the age group of 6 to 11 years and of those who were exempted from the application of the Act. It should inform the guardians concerned that they should send their children regularly to school. It must consider the applications from the guardians for the exemption of their children from attendance. It must take all measures necessary to secure the regular attendance of children of the school going age and must take action against the defaulters. It should assist the local authority in the construction of schools and in the provision of necessary equipment. It should keep itself informed of the working of the recognised schools in its area. It should make recommendations to the local authority which it thinks proper for the efficient management of their schools. For this purpose, the chairman of the committee or its members may visit the schools under its supervision and submit a report to the committee. But he should not issue any orders to a member of the staff of the school. Finally, it must submit a report annually to the local authority of its activities.

The Administration and Planning Committee of the gaon panchayat is responsible for the recruitment, promotion and punishment of employees of the ogaon panchayat.

We have so far considered the functions and powers of some of the statutory committees. Now let us consider the powers and functions of the non-statutory committees. All the Acts authorised the local authorities to delegate some of their powers to the committees and to withdraw them at any time. The Public Works Committee of the Gauhati Municipal Board has power to dispose of all tenders and estimates whose value does not exceed Rs. 500. The Dispensary Committee should scrutinise the accounts of the dispensary and enquire into all matters affecting the welfare of the institution.

In the Gauhati Mohkuma Parishad there were three committee, Planning Committee, Budget Committee and the Committee for the distribution of funds. The Planning Committee consisted of 15 members and the other two committees seven each. The President and Vice-President were ex-officio members.

The powers and functions of the local government committees are subject to certain limitations. The committees have no power to levy a rate or to float loans. As a matter of fact

the local authorities are prohibited from delegating their powers of taxation to the committees. From this it follows, that the committees depend upon the local authority for their finances. Although the committees are entitled to prior consultation on all matters connected with their work it is not mandatory on the part of the local authority to consult them in regard to general administration. Again, the committees have no power to affix the seal of the local authority to any document without its approval. That is, it is impossible for a committee either to sell or to purchase property or to carry out any work when the other party to the transaction is not content with a mere promise but wants a formal contract to be signed and sealed. The committees have no power to delegate any of their powers to a sub-committee without the approval of the local authority. Finally, all committees are bound to report to the local authority and in many cases the local authority has the final word about them.

Working of the Committee System: The working of the committee system was not satisfactory for various reasons. Persons not adequately qualified for the task were appointed as members. For instance, the law sub-committee of the Gauhati Municipal Board consisted of a medical practitioner who had no legal knowledge, and therefore evinced no interest in its work.

There was no restriction to the number of committees on which a member could serve. The result was that a single person was a member of as many as seven commitees. So he was not able to attend the meetings of all the committees besides the meeings of the board. It may be remembered that the members of the committees have also their professions to look after.

It is practically impossible for a single individual to serve on more than three committees. It would have been better had a restriction been imposed on the number of committees on which a member could serve. Such restriction will not only secure regular attendence of members and frequent meetings but also opportunity for others to serve on the committees.

Again, there was no committee in most local authoritis for the coordination of the activities of the several committees. In the Gauhati Local Board there was a General Committee to scrutinise the proposals of all the committees. In other local authorities even this committee did not exist. Every committee should know what other committees are doing on

cognate subject. The absence of co-ordination may result in waste of public funds. Imagine what will happen if there is no coordination committee. Today the public works committee will lay a road. A week later the water works committee will break it to lay a water main. A month later the Electricity Committee will dig a portion of the road for laying a cable. After another month the Public Works Committee will break another portion of the road for the construction of a drain. This hypothetical example shows that it is essential that there should be a committeee for the coordination of the activities of the several committees.

Further, the joint committee system was not freely used although provision was made for their constitution. The joint committee system would have enabled the local authorities contiguous to one another to supply greater number of social services to their inhabitants. Water supply, electricity and roads are some of the essential services in which the local authorities are vitally interested. But many of them are not in a position to provide them because of financial difficulties. If they had come together there could have been joint investigation, joint planning and joint execution of schemes economically and efficiently.

The principle of cooption of outsiders was not used extensively. As a consequence, the reservoir of knowledge and talent that was available was not used. Where cooption was used it was not done with a view to secure the best type of men.

While constituting committees local authorities have not bestowned enough attention as to the term of office, powers and functions, quorum and other details. In the absence of these details the committees did not function at all. To use the colloquial phrase they existed only on paper.

There were no standing committees for the administration of important subjects such as finance. It would have been better if it had been laid down statutorily that there should be a standing committee for certain subjects in every local authority.

The local authorities did not delegate powers and functions to the committees. The general rule was that the proceedings of the committees should be placed before the board for its approval. Very often the proposals of the committee were set aside by the local authorities. No committee will function responsibly if powers and functions are not delegated to it. Nor

will it function with a sense of responsibility if the local authority interfers with the decisions of the committee unreasonably.

While entrusting certain powers and functions care was not taken to see that unrelated functions were not entrusted to the committees. For instance, the Gauhati Municipal Board constituted a committee known as "Lighting and Food Committee." The two functions entrusted to the committee were not related to one another. The result was that the committee looked after only one and ngelected the other.

Little use was made of the committee system. Most of the local authorities desired to decide everything in the council hall. For instance, the Barpeta Local Board made no use of the committee system. Instead, it met 13 times in a year to transact business though many meetings had to be adjourned for want of quorum. Further, every item on the agenda did not receive due consideration.

Finally, the committees did not meet frequently. There might have been some practical difficulties with regard to the committees of the rural boards but there was no such difficulty with regard to urban boards and panchayats and yet they did not meet as required by the rules framed by the local authorities themselves.

PART III FUNCTIONS

To get the whole world out of Bed
And washed and dressed and warmed and fed
To work, and back to bed again,
Believe me, Soul, costs worlds of pain.

JOHN MASEFIELD.

CHAPTER XIV

FUNCTIONS OF THE LOCAL AUTHORITIES

Before the invention of the steam engine, the locomotive, the automobile, the telephone, the radio, the aeroplane and other marvels of science and technology, the responsibilities of Government were not only few but largely police in character. The police state of the 19th century has retreated to make room for a socialist state. The nature of this transition may be seen in the tremendous expansion of the functions of local authorities. Prior to 1900, most of the services which are now comman did not exist. There were some so called drains to carry rain water but no sanitary drains to remove the sullage water. There was no protected water supply. There was no fire fighting apparatus. Public health arrangements were confined to something like crude segregation. A few hospitals and dispensaries were provided here and there. A few streets were metalled. But with the increase of population the activities of the local authorities have naturally increased in number and extent. Three factors were responsible for this tremendous expansion. *First*, the expansion of the administrative areas; *second*, the progress of science; *third* the development of the ideal of social justice. Thus, a comparative study ot the functions of local authorities at different periods shows an upward trend in the number and variety of functions with which they are entrusted.

It may, however, be noted that local authorities in India have only those powers that have been given to them by the legislature. This implies that if a local authority wants to do something it must be able to put its fingers on the sections of

the local Acts concerned authorising it to do that something. Thus the local authorities have no inherent powers and functions, though they have implied powers; but the nature and extent of implied powers must be determined by courts of law. So no one can argue that a local authority ought to have a particular power. If that power can not be found in the Act, either explicitly or impliedly the local authority cannot exercise it. Thus the local authorities exercise limited powers Is this state of affairs desirable? The German local authorities are permitted by law to do anything that is not prohibited or not exclusively given to some other authority. Thus, a German municipal board cannot maintain police force because police is a function of the state. They have, however, power to maintan municipal opera houses. Then, do the German local authorities have unlimited power to do anything? Not at all. A German local authority ought to exercise its powers to promote good government and the conception of good government limits its powers. For instance, it may set up a printing press to print books and papers needed for its work, but it cannot use the press for commercial purposes. A municipal publishing concern is not supposed to promote common good. It is not an amenity. A municipal bakery or a municipal opera is primarily an amenity of the town. However, it must be said that the conception of good government has provided the German local authorities greater scope for enterprise.

Mandatory and Permissive Function: Powers and functions entrusted to the local authorities are of three kinds, mandatory, permissive and agency. The distinction between permissive and mandatory powers is vital. If the law says that a local authority may do some thing the local authority is free to do that thing or not to do it. If the legislation says 'they shall do it.' then it is obligatory on their part to do it. So mandatory functions are duties imposed on the local authorities by law. The word 'shall' is held to indicate the mandatory nature of the functions. It is true that sometimes the word 'may is construed as obligatory. But generally, it is not. So where the verb is in the imperative it means that there is some one somewhere who can take legal action if an authority fails to discharge its duties.

Occasionally, legislation is not content with plain 'shall'. The Act may say "It shall be the duty of." The five words carry

the same meaning as the word 'shall'. The four extra words are unnecessary. But they lay emphasis.

Every power can be resolved into 'may' or 'shall' but legislation introduces many qualifications and conditions.

The agency functions are those which Government entrusts to a local authority in the capacity of its agents, subject to certain conditions.

The mandatory functions of the local authorities are comparatively few. They are for instance, payment of salaries to the establishment and the preparation of the budget estimate. All other function are permissive. A common provision is that a local authority may do something with the previous consent of the minister concerned. The local authority for instance cannot float a loan in the open market without the previous sanction of Government.

Sometimes a power which is permissive may be made mandatory. For instance, a legislation may say. A local authority may and if required by a minister shall undertake the performance of all or any of the following services." Such a provision may result in the establishment and in the extension of services as the need grows and funds become available. It is not desirable to make these services mandatory for obvious reasons. In the sparsely populated areas they will be unreasonably expensive. On the otherhand there are local authorities which may not like to provide any service even though they are financially sound. If such a provision exists in the Act, the Minister may warn the local authority to provide a particular service and set the time limit within which the service should be provided. If the authority adopts an unreasonable attitude, the Minister may make the section mandatory.

Division of Powers: If all the local authorities are of the same legal category, the division of powers is not difficult. But they are not. So certain principles have to be followed in regard to the division of powers. Services of a major character ought to be entrusted to municipal Boards and anchalik panchayats and services of a minor character ought to be entrusted to lesser authorities like the town committees and panchayats. Let us trace the grouth of the functions of the different local authorities chronologically.

Municipal Boards: First we shall consider the functions of

the Municipal Boards. Under the Town Improvement Act, 1850, the Municipal board was held responsible for "making, repairing, cleaning lighting or watching any public street, road, drain and tank or for the prevention of nuisances or for improving the said town or suburb in any other manner." It was also responsible for the appointment and management of all officers and servants of the boards, the determination of the persons and property liable to taxation and the fixation of the rate at which taxes ought to be levied and collected. The board had also power to enter into contracts.

Under the Municipal Act, 1864, the municipal board had all these powers and some more. While it had power to enter into contracts, it had no power to enter into contract whose estimated value exceeded Rs. 1,000 without the sanction of Government. As regards taxation, although it had power to impose a rate upon all the houses and buildings within its jurisdiction it was laid down that it should not exceed ten percent of their annual rental value. In addition to this it had power to levy a tax on carriages and horses and to collect a licence fee from certain professions and trades. Further, it had power to remove encroachments, to pull down dangerous structures and to frame bye-laws for the good government of the locality. Thus, the Municipal Act of 1864, widened the powers and functions of the municipal boards.

The Municipal Act, 1876, appears to have made a distinction between mandatory and optional functions. The obligatory functions were the maintenance of police, the repayment of interest and loans taken from Government, the payment of salaries to the establishment and the maintenance of office.

The optional functions were the construction and maintenance of roads, embankments, ghats, wharves, jetties, wells, channels, drains, privies, latrines and urinals; the supply of protected water, the provisions of lighting, the watering of roads, the construction of buildings required for municipal purposes and "other works of public utility which are calculated to promote the health comfort and convenience of the inhabitants of the town." From this it is evident that the municipal boards were at liberty to undertake any work which would promote the good of the community provided funds were available and the expenditure did not exceed Rs. 1,000 per hundred population.

Further, a municipal board could undertake the construction and repair of school houses, the establishment and maintenance of schools, hospitals and dispensaries and the administration of vaccination. It could make a contribution to other municipal boards for any of the purposes mentioned above provided it would benefit the inhabitants of the municipal area making the contribution.

In 1884, the municipal boards were relieved of their police functions. Similarly, the construction of ghats, wharves and jetties were no more their concern. But some more functions were added to the existing list such as the construction of tramways, the laying out of parks, the maintenance of veterinary dispensaries, the provision of libraries, fire brigades, the establishment of benches for the trial of offences under the Municipal Act, the supply of protected water and works of public utility calculated to promote the health and comfort of the inhabitants. Further, the municipal boards couuld do all those things, not inconsistent with the Act and which were necessary to carry out its purposes.

In 1923, a new Act was brought into force which contained all the obligatory functions mentioned in the Act of 1884 but the number of optional functions was made larger. They included the planting and preservation of trees, the erection and maintenance of town halls, the payment of gratuity to any officer or servant in its employ and the maintenance of municipal markets. The Municipal Act of 1956 which repealed the Act of 1923 contained all those functions and powers enumerated in the latter. To sum up, during the most of the 19th century the municipal boards were concerned with police functions but in the present century particularly after the First World War, they assumed a number of positive functions.

Local Boards: Let us now consider the powers and functions of the local boards. Under the Local Rates Regulations, 1879, the District Committee was concerned with, the construction, repair and maintenance of roads and other communications, the improvement of rivers, canals, the maintenance of the district post, the construction and repair of school houses, the maintenance of schools, the training of teachers, the establishment of scholarships, the construction and repair of hospitals, dispensaries, lunatic asylums, tanks, rest houses for travellers and other local

works likely to promote the health and happiness of the inhabitants of the district. Further, prior to 1882, minor works were executed by the District Committee and works of major importance were handed over to the Executive Engineer who belonged to the Imperial establishment. He prepared the estimates and executed the works entrusted to him. In 1882, Elliot, greatly enlarged the activities of the local boards. He transferred to them, most of the public works and the services of the superior officers of the P.W.D. Later on, however, several material changes were introduced. In the first instance, local boards were entrusted with the control of all communications and roads and also with the repair of all public buildings including subjails and kurcheries. In 1884, public buildings at headquarter stations were transferred to the P.W.D. In 1887, all the subdivisional buildings were taken over by the P.W.D. In 1890, all communications of provincial importance such as trunk roads and feeder roads connecting the trunk roads with steamer ghats together with ferries and rest houses on such roads were transferred to the control of the P.W.D. Again, all works costing Rs. 500 and above were entrusted to the Executive Engineer, P.W.D. for execution. In 1889, the position was as follows. The local boards were competent to undertake any work whose cost was less than Rs. 500.

In 1911, there was some discussion about the powers and functions of local boards. The witnesses that appeared before the Decentralization Commission were not in favour of entrusting them with more powers. Among the reasons adduced for this were the lack of an efficient executive machinery and the absence of an effective control over the local boards by Government. Further, most of the local boards were considered to be not successful in the discharge of their duties.

The Local Boards Act, 1915, entrusted the local boards with the following functions—the construction and repair and maintenance of roads, embankments, bridges, water canals and other works of communications, the planting of trees by the road side, the removal of branches of trees which were hanging over roads, the construction and maintenance of railways, ropeways, the establishment and maintenance of steamer services or other approved means of transport.

They could also be entrusted with certain agency functions.

For instance, they could undertake on behalf of Government and upon such conditions as might be agreed upon the construction, repair and maintenance of any public building or other works which were vested in it.

They had also power to establish tools on bridges, road ways and footpaths.

In addition to all these they could establish, maintain and manage all primary and middle vernacular schools within the sub-division. They could also give grants to any school under private management.

Again, they could establish and maintain within their jurisdiction dispensaries, hospitals, asylums and places for the reception of the sick and the destitute. Further, every local board had to appoint vaccinators and as far as possible make provision for sanitation, conservancy and drainage of the sub-division and the supply of protected water.

The miscellaneous functions included the construction and maintenance of staging bungalows and the serais for the use of travellers, the destruction of dangerous animals and stray dogs, the control of fairs and festivals, the establishment and maintenance of veterinary dispensaries, the provision of facilities for the breeding of horses and cattle, the maintenance of bazaars and relief to those afflicted by natural calamities.

The 1915 Act, made a general provision enabling the local boards to undertake other local works likely to promote the health, comfort and convenience of the public and not otherwise provided for in the Act.

The Local Boards Act, 1953, made certain changes of a minor character. The local boards were no more concerned with the construction of light railways and ropeways. But they could construct and maintain any means of transport which may mean anything. Again, they could contribute for the maintenance of a steamer service. Evidently a local board had no right to maintain a steamer service. But for these there was no fundamental difference between the 1915 and the 1953 Acts.

In 1959, the local boards were abolished and their place was taken by the Mohkuma Parishad. The Mehta Committee suggested that the Zilla Parishad might examine and approve the budgets of the Panchayati Samities, coordinate and consolidate the block plans and supervise the activities of the samities. The

Panchayat Act, 1959, entrusted the Mohkuma Parishad with a number of obligatory functions. The Mohkuma Parishad shall scrutinise and approve the budgets of the anchalik panchayats, review, guide and assist and coordinate the activities of the anchalik panchayat and tender advice to Government as regards the distribution of grants and prepare district plans. Although all these functions are obligatory, most of them are advisory in character.

Panchayats: Under the Panchayat Acts, 1856, and 1870, panchayats had only one function—the imposition of a tax for the payment of salaries to the choukidars. After paying their wages, the magistrate could utilise the balance for the sanitary improvement of the place or for lighting. The first Act was not in force in Assam.

In 1912, when Government decided to establish panchayats the question arose as to what functions ought to be entrusted to them. In his evidence before the Decentralization Commission, Melitus, the Commissioner opined that the panchayats might be entrusted with a few functions such as the decision of petty disputes provided there was not much chance of their being dominated by landlords or subordinate officials. This was thought to be practicable because in the Assam Valley disputes were frequently settled in this way. But Beatson Bell, the Lt. Governor, went a step further. He would entrust the panchayats with a number of functions such as the management of schools, including even the appointment of teachers and the management of dispensaries. He thought that the management of these services by the panchayats would be cheaper than their management by government.

In 1915, the local boards Act provided for the delegation of certain powers and functions to the panchayats by the local boards. For instance, the local boards could entrust the execution of any work whose estimated cost did not exceed Rs. 250 or with the previous sanction of the Commissioner the execution of any work the estimated cost of which exceeded Rs. 250 but not Rs. 500, the management of primary schools, dispensaries, bazaars, ferries or serais, the maintenance of tanks, spring wells or parts of rivers and streams and the supervision of burial and burning grounds.

The Panchayat Act, 1926, enlarged the powers and functions

of panchayats. They were entrusted with the construction and maintenance of roads, the cleaning of streets, the removel of rubbish heaps, the provision of public latrines, the administration of vaccination and anti-malaria operations, medical relief and the control of communicable diseases.

Provision was also made for entrusting additional powers to any village authority which discharged its primary functions successfully. These village authorities were known as qualified village authorities'. Government could transfer to such authorities the management, protection and maintenance of village forests reserved for any purpose, or any institution, the execution of any work or add any function or direct the authority to perform any duty other than those specified in the Act.

The Act also contained a general clause authorising the village authority to do all acts necessary for and incidental to the carrying out of the functions entrusted to it.

The Panchayat Act, 1948, enlarged the functions of the panchayats to a great extent. The Rural Panchayat was entrusted with a variety of functions, such as the lighting of streets, sanitation, conservancy, the prevention of public nuisances, the construction and maintenances of places for the storage of cowdung and oil cakes and other manures, the maintence of census records relating to population, cattle, weavers and of unemployed persons, the construction and maintenance and improvement of communications, drains, and waterways, the control of grazing grounds, the relief of the poor, the sick and the famine stricken, the regulation of the slaughter of animals, the curing of skins of the dead animals, the regulation of the production and disposal of food grains, the establishment and maintenance of primary schools and cooperative societies, the construction of model villages, hospitals and dispensaries, the enforcement of anti-malaria and anti-kalazar measures, the enforcement of vaccination, the registration of births and deaths, the encouragement of cottage industries, the prevention of cattle mortality, the provision of maternity and child welfare services, the planning and maintenance of trees, the prohibition and control of fragmentation and sub-division of holdings, the establishment of panchayati adalats for the administration of civil and criminal justice the establishment of radio sets for the benefit of the rural population, the regulation of melas and hats, pounds,

saraihouses, the maintenance of libraries and reading rooms, the restraint of child marriage, the removal of encroachments, the destruction of stray dogs and the undertaking of security measures against thefts and dacoities.

The framers of the Act do not seen to have bestowed serious attention on the fact that village panchayats were not competent enough to undertake some of the functions enumerated above and that their financial position would not permit them to undertake so many functions. In practice, however, many a village authority were concerned with only very few functions.

After 1947 : In the post-Independent period panchayati-raj assumed great importance and there was a good deal of discussion about the functions to be entrusted to panchayats. The Taxation Enquiry Commission opined that a cautious policy should be adopted in regard to the functions to be entrusted to them and racommended that socio-economic functions like production and distributiou ought not to be entrusted to them. As a rule they ought to be entrusted to the cooperative societies. The Commission also recommended that the panchayats should be entrusted with as few functions as possible like the management of schools, village communications, village sanitation, water supply and minor irrigation.

The Central Council of Local Self-Government Ministers recommended that the functions of the panchayats ought to be classified into obligatory and optional. The Council did not however, enumerate the obligatory and optional functions but said that panchayats should be compelled to undertake all the obligatory functions. As regards optional functions, Government might entrust them to such of the panchayats as were capable of discharging them. As regards the socio-economic functions, the panchayats should get first preference if they were capable of discharging them. Otherwise they ought to be entrusted to the cooperative societies. In regard to development works, panchayats should increasingly be used for their execution.

The conference on Local Self-Government Ministers, 1954, went a step further and suggested that the collection of land revenue might be entrusted to panchayats. It also suggested that they should be associated with the maintenance of land records and the management of waste lands, pasture lands and

fisheries. It also recommended that panchayats might be entrusted with the registration of births, deaths and marriages, the construction, the repair and the lighting of streets, the provision of medical relief including maternity and childwelfare, general sanitation including the control of communicable diseases, the removal of encroachments on public streets, the control of burial and burning grounds, the construction of roads, bridges and culverts, the establishment and maintenance of libraries and reading rooms and planting of trees on the road side.

The Conference also suggested that the panchayats might be entrusted with crop experiments, the improvement of agriculture, cooperative farming, the management of cooperative thrift and credit societies and multi-purposes cooperative societies, the improvement of cattle breeding, and the general care of life stock, the establishment of common granaries, the improvement and the encouragement of cottage industries, the assistance and care of crippled destitutes, and those afflicted by natural calamities, the construction of Dharmasalas, watch and ward, the regulation of melas and festivals and power to compel persons to render free labour.

II Five Year Plan : The Second Five Year Plan suggested the division of functions of the village panchayat into two categories, administrative and judicial. The administrative functions were further sub-divided into two classes, civil and development. The development functions would be the framing of programmes of production in the villages, the development of common lands such as waste lands, forests, abadi sites and tanks including measures for soil conservation, the construction and repair of common village buildings, public wells, tanks, and roads, the organization of mutual aid, the promotion of cooperative societies, the organization of voluntary labour for community work, the promotion of small savings and improvement of live stock.

As regards the management of village land the panchayat would regulate the use of common lands such as waste lands, forest abadi sites and the cultivation of lands set apart for the benefit of the village community, consolidation of holdings and the adoption of standard methods of cultivation and assist the Government in the maintenance of land records.

As regards land reforms, the panchayat could determine the lands to be allotted to owners and tenants in case of resump-

tion of lands for personal cultivation, the redistribution of surplus lands arising from the imposition of ceilings on agricultural holdings.

The judicial functions of the panchayat could be the administration of civil and criminal justice, the enforcement of minimum wages for agricultural workers and the decision of simple disputes pertaining to land.

Mehta Committee: The Mehta Committee said that besides the municipal functions which are normally entrusted to the local authorities, the panchayati samities might be entrusted with the development functions such as the development of agriculture in all its aspects, including the selection, procurement and distribution of seeds, the improvement of agricultural practices, the provision of finance to the agriculturists, the execution and maintenance of minor irrigation works, the improvement of cattle and the promotion of local industry. In addition they could also undertake certain agency functions such as the execution of special schemes.

As regards panchayats, the Mehta Committee said that they ought to be entrusted with a few obligatory functions and might be permitted to undertake any other development function with the approval of the panchayati samiti. The obligatory functions were the provision of water supply for domestic use, sanitation maintenance of public streets, drains and tanks, the lighting of streets, the managements of lands the maintenance of records relating to cattle, the relief of distress, the maintenance of panchayat roads and bridges and the supervision of primary schools. The committee also suggested that panchayats which satisfy certain conditions may be used for the collection of land revenue. As regards the development functions, the committee suggested that agriculture in all its aspects including the selection of seeds, their procurement and distribution might be entrusted to panchayats.

Act of 1959: The recommendations of the Mehta Committee were accepted by the Assam Legislative Assembly to a great extant. The Panchayat Act, 1959, distributed the functions and powers between the anchalik, panchayats and gaon panchayats as follows. The gaon panchayats are entrusted with the cleaning and lighting of streets, sanitation and conservancy, burial and burning grounds, playgrounds and public gardens, control of

public latrines, control of communicable diseases, medical relief, reclamation of unhealthy places, maternity and child welfare, grazing grounds, vaccination, control of buildings, planting of trees, cattle pounds, construction of roads control of fairs, dharmasalas, minor Irrigation, Slaughter houses, Ware Houses, Land management, community Listening, public Radios, library and reading rooms, eduction upto middle school, youth Clubs, theatres, watch and ward, Fairs and festivals, maintenance of land records, census of all kinds, births and deaths, distribution of relief, development plan, and cattle stands.

The **Anchalik Panchayats** are entrusted with the sanitation and conservancy, anti-malaria operations, control of commuicable diseases, medical Relief, reclamation of unhealthy places, maternity and child welfare, vaccination, cattle pounds, control of buildings, planting of trees, construction and maintenance of roads, control of fairs, dharmasalas, irrigation works, control of slaughter houses, warehouses, land management, youth clubs theatres, dangerous and offensive trades, supervision of gaon panchayats, approval of the budgets of panchayats, agency functions, relief of the distress and education above the middle school.

There was a great debate as to the functions that ought to be entrusted to the panchayats. We shall therefore discuss this point in some detail. Should panchayats be entrusted with the management of cooperatives? The Panchayat Act, 1948, had already assigned to panchayats the duty of opening and regulating cooperative societies, sales and purchase depots and trading organizations though in practice no panchayat had undertaken this function. There are, however, certain disadvantages in entrusting such functions to panchayats. The panchayat is a miniature representative body with coercive legal power. The cooperative society set up by it is likely to reflect its political colour. This might seriously affect the efficiency of the society as an economic and functional organization. So it is desirable to keep the two bodies separate. The Panchayat ought to concern itself with matters of general concern, and the co-operative societies with the improvement of the economic condition of the villages. Thus, the functions of the co-operative societies are distinct and limited in character. The Taxation Enquiry Commission was against the idea of entrusting the management of co-operative societies to panchayats.

Should state lands, including waste lands be entrusted to the panchayats so that they may use such lands effectively for the general benefit of the community? Should they be empowered to manage lands, suggest rotation of crops and advise individual citizens as to how best their lands can be utilised not only for their personal benefit but also in the interest of the community at large. The Second Five Year Plan laid great stress on the role of village panchayats in regard to land reform and land management. It suggested that panchayats might be entrusted with the bringing of waste lands under cultivation with the cultivation of lands lying fallow, and the leasing of lands. They might also be associated with the implementation of land reforms and closely associated with the maintenance of land records. The Patwari should be required to report all changes of possession to the village panchayats and furnish a copy to the person concerned. This would tend to check false entries. The Panchayat might also be entrusted with the disposal of cases relating to transfer of ownership or changes in possession or succession.

The Panchayati Committee of the II Local Self-Government Ministers Conference approved the recommendation but Government was not in favour of it. Perhaps Government did not understand the true implication of the proposal. This recommendation was intended as a step towards the future reorganization of Agricultural Co-operatives. The First Five Year Plan mentioned that for several reasons it became imperative that at the village level there should be an organization deriving its authority from the village community and entrusted with the responsibility for undertaking the programme of village development. In relation to land policy the role of village panchayat was considered as extremely important because there were certain problems which none but panchayats could deal with. For instance, tenancy legislation frequently proved infructious because of the lack of administrative arrangement for enforcing it. It was known for instance, that entries in revenue records relating to personal cultivation were not always correct where the owners entertained the fear of losing their lands to tenants in the event of land reform legislation. So the village panchayat was considered as the most effective instrument by which land reforms could be carried out. In other words, any leasing of land

or sub-letting ought to be done through the village panchayats.

But the most important point is whether panchayats should be entrusted with the development functions. The Mehta Committee would entrust the development of agriculture in all its aspects including the selection of seeds, its procurement and distribution, the improvement of agricultural practices, the provision of local agricultural finance, minor irrigation works, and improvement of cattle, sheep and goats to panchayats. The Planning Commission recommended that Panchayats whatever may be their size should take upon themselves the development functions. If the villages are to produce more food and raw material said the committee development functions ought to be entrusted to panchayats.

We can answer this question only if we have a clear conception of the term development functions. The term development functions cover a large number of functions which may be classified under five heads. *First*, there are social and civic functions such as education, public health and communications. They are clearly the responsibility of local authorities. *Second*, there are functions which are mainly economic like agricultural production, cottage industries, processing or marketing of produce and credit. They cannot be entrusted to local authorities. They are the functions which ought to be the concern of cooperatives or private individuals. The local government institutions should have nothing to do with the economic functions. Then there are functions which are mainly social such as the maintenance of youth clubs or community centres. They are purely voluntary organizations. The Panchayats may help in their organization but it is not bound to do so. Then there are functions which relate to the improvement of industrial enterprises which ought not to be entrusted to panchayats. From this it follows that those development functions which are municipal in character may be entrusted to panchayats.

Should Panchayats be entrusted with the collection of revenue. The Administrative Reforms Committee (Kerala) 1958, recommended that panchayats might be entrusted with the collection of land revenue. They did not suggest this as a means to augment the resources of panchayats. The main reason which prompted the committee to make this suggestion was that instead

of having a multiplicity of functionaries and organizations at the village level the panchayat should function as the only organization between the people and Government. In a number of States, Panchayats have already been entrusted with the collection of land revenue and they are paid a percentage of the collection as commission. In Uttar Pradesh for instance, the total land revenue of the State was about Rs. 160 million. The commission was about Rs. 10 million. The entire revenue was collected by panchayats because they would get a handsome commission. In Gujarat panchayats were successful in collecting land revenue and the percentage of collection was sometimes even 100 percent. There were no defalcations and no coercive measures were adopted for the realization of revenue. The Mehta Committee thought that the collection of land revenue by the Panchayat was a progressive measure and therefore the experiment might be tried in selected panchayats. Most of the States, were, however, reluctant to try the experiment. Only three States Uttar Pradesh, Bihar, and the former Saurastra entrusted this function to some panchayats. In other States provision has been made to delegate this function to panchayats but in practice it has not been done so far. Some of the officers whom the present writer interviewed were not in favour of the proposal. They considered the proposal as impracticable in the existing circumstances. If the idea was that the unpaid service of the village panchayat president would replace the paid service of the village headman and thereby the salary paid to the village officer could be saved and utilised for panchayat purposes, this would not happen. The local boards showed disinclination to collect taxes voted by themselves. Finally, it is not desirable to burden the newly formed panchayat with this difficult task all at once.

Let us now consider whether the panchayats should be entrusted with the maintenance of land records. The Second Five Year Plan and the Panchayat Committee of the Local Self-Government Ministers' Conference suggested that panchayats should be associated with the maintenance of land records. That is, the Patwari should report all changes of possession to the panchayat and furnish a copy to the person concerned. The Panchayat might also be entrusted with the disposal of cases relating to transfer or changes in possession or succession. Several States opposed the proposal. Perhaps they did not understand the im-

plications of the proposal. Neither the Committee nor the Plan intended that the work of maintenance of land records ought to be transferred to panchayats. They simply recommended that panchayats should be informed about all changes of possession. They should be associated and not entrusted with the work relating to the maintenance of land records so that wrong entries could be checked. There is no harm in associating the panchayats with the maintenance of land records.

As regards compulsory labour the panchayat committee of the II Local Self-Government Ministers' Conference recommended that greater dependence should be placed on shramadan by the village community for carrying on public works and that panchayats might be given power to impose compulsory service for public purposes within their jurisdiction. The Government of Uttar Pradesh, Andhra and Madras did not accept this recommendation. But several others made provision for the levy of compulsory labour. The Government of Uttar Pradesh stated that provision was made in the panchayat Raj bill of 1954 for the levy of compulsory labour but the joint committee on the bill recommended the deletion of the provision because any imposition of compulsory labour was considered to be not in keeping with the provisions of Article 23 of the Indian Constitution. So far as Madras and Andhra Governments were concerned they pointed out that there were already two enactments authorising the imposition of compulsory labour. In the Madras Village Panchayat Act, there was a provision for the framing of rules by Government in regard to acceptance in lieu of any tax under the Act, any service by way of labour cartage or otherwise. The Madras Government did not frame any rule because they thought that it might offend Article 23 of the Constitution. Further, the Madras Compulsory Labour Act of 1858, provides for the compulsory mobilization of labour in case of emergencies, such as breaches of tanks and embankments. Such labour is paid for. The Assam Panchayat Act, 1959, authorised the gaon sabha to impose a labour tax on all able bodied persons between the ages of 18 to 40 years provided no person was compelled to render manual labour for more than twelve days in a year and more than one day at a time, provided also that a person assessed to labour tax could instead of rendering labour pay to the gaon panchayat fund an amount not exceeding double the units of labour at the rate pres-

cribed. But this provision was repealed in 1959. The reasons for repealing it is not known. Provision should be made for the levy of labour tax where voluntary contribution in cash or labour is insufficient to execute a development project.

Should panchayats be entrusted with the management of the properties of public trusts, The Panchayat Committee of the II Local Self-Government Ministers' Conference did not support the proposal. Generally, panchayats were not entrusted with the management of charitable endowments. But in Madras and Andhra the Board of Revenue which is responsible for the management of charitable endowments can transfer to the control of a panchayat an endowment with its consent. The Madras Government thought that there could be no objection to a panchayat being appointed as a trustee of any property. So under certain circumstances the management of trusts may be entrusted to panchayats.

Should panchayats be entrusted with banking business? It was argued that professional money lenders who do enormous banking business in the rural areas were doing infinite harm to society. If panchayats are entrusted with banking business they would not only benefit the village but also assist the Government in the National Savings drive programme. Theoretically the argument is sound. But banking is an economic functions and panchayats ought not to be entrusted with it.

Thus, there were three schools of thought. The first school said transfer as many functions as possible to the local authorities, the maximum possible at the village level. All the municipal functions might be given to panchayats. As regards development functions, they might be entrusted to panchayats so that the people might have greater confidence in them. Further, for the successful execution of plans, popular participation in the form of labour is necessary. The advisory bodies constituted in various project areas were not able to enlist the cooperation of the people because they were not the representatives of the people. But if the development functions are entrusted to panchayats they may be able to enlist the cooperation of the people. Apart from this fact, it might bring into existence a better class of leaders. All these years clever types of persons not having the interests of the community in mind came forward to take up leadership. It may be argued that there are factions in the villages and the fac-

tion which is dominant is likely to abuse its power. The advocates of local autonomy argue that if the development functions are entrusted to panchayats these factions are likely to disappear. But if we entrust them with regulatory functions such as deciding cases, and imposing fines and not development functions, factions and feuds will increase. Democracy involves taking risks of great magnitude. We should not underwrite them. We should get over the past inhibitions and accept deliberately the risks of democracy. It is also said that instead of havnig too many authorities it would be desirable to have a single organisation at the village level with a large number of functions. Then only there is real democratic decentralization.

The second school argues that democratic decentralization does not necessarily consist in immediate and outright transfer of responsibility from Government to the panchayat unions. The statutory devolution might in the first instance be limited to those social services which are at present the statutory responsibility of the local authorities. Again, the view that there should be a single organization to look after all functions socio-economic and political is a dangerous one. A cooperative society is a business organization whose management ought not to be entrusted to a political body.

The third school is represented by the officers of Government. Their view was that panchayats ought to be entrusted with municipal and social development functions but not with the executive responsibility for productive work. The officers favoured an arrangement by which a committee of the anchalik panchyat would function as the Block Advisory Committee. By executive delegation they could be entrusted with the execution of particular schemes. But Government did not accept this view on the ground that there were psychological advantages in conferring a definite measure of responsibility on panchyats in respect of formulation as well as execution of local development schemes. It is nesessary that elected representatives of the local people should realise that credit for the successful execution of local development schemes would be theirs as well as the blame for failure. Then only they were likely to show sustained interest as well as the willingness to take responsible decisions. These results were unlikely to be secured by mere advisory association. At the same time Government recognised that local

development schemes had to be fitted into the framework of the State Development plan. So long as production had to be organized in the national interests on the basis of National Five Year Plan Government must continue to retain the powers necessary for discharging this responsibility. So provision was made for the execution of productive development works by the panchayats while the State and Union governments retained control over their planning.

To sum up panchayats may be entrusted with those development functions which are municipal in character. They ought not to be entrusted with the economic functions such as the management of cooperative societies. Circumstances are not favourable for entrusting them with the collection of land revenue and the maintenance of land records.

Let us now consider some of the functions entrusted to the local authorities. Let us take education first.

Education : When the British took over the administration of Assam, the education of the people was in a deplorable condition. The number of individuals who could read and write was very few. According to Captain Butler, the Magistrate, Nowgong, there were thirty educated persons in the district in 1838. The so called respectable classes took little or no interest in the promotion of education.[1] Apart from this fact, inefficiency in teaching and defective supervision also contributed to the educational backwardness of the Province. Further, education was also not popular because the medium of instruction was not Assamese but Bengalee.[2]

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[1]. Moffat Mills : A Report on Assam, 1854, p. 26. Captain Butler remarked "They (respectable classes) show no desire whatever to see the rising generation educated or made wiser than themselves. In fact I believe if the higher classes could prevent the Assamese youth being educated, they would not hesitate to do so. The supineness and the indifference of the most influential men in the district—the Mouzadars—can be scarce conceived except by those in personal and constant intercourse with them. They seldom visit the schools and when required to build or repair a school house, they deem it a kind of oppression."

[2]. Ibid. p. 28. Mills wrote "The people complain and in my opinion with much reason of the substitution of Bengalee for the vernacular Assamese. Bengalee is the Language of the Court not of their

Apart from this fact there were also other factors such as the Abhor expedition, the apathy of the people, and the unwillingness of the pundits to go into the interior which were responsible for the slow progress of education. When pundits were sent to some places they did not receive encouragement

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popular books...and there is a strong prejudice to its general use... Assamese is described by Brown, the best scholar in the Province, as a beautiful, simple language differing in more respects from than agreeing with Bengalee and I think we made a mistake in directing that all business should be transacted in Bengalee and that the Assamese must acquire it. It is too late now to trace our steps but I would strongly recommend Anandaram Phookan's proposition to the favourable consideration of the Council, the substitution of the vernacular language in lieu of Bengalee, the publication of books in Assamese and the completion of the course of vernacular education in Bengalee. I feel persuaded a boy will under this system learn more in two than he now acquires in four years. An Enblish youth is not taught Latin until he is well grounded in English. In the same manner the Assamese should not be taught in foreign language until he knows his own."

Ibid. Appendix I.-A. Letter from A. H. Danforth, Missionary, Gauhati. Danforth wrote "Before any great blessing can result to the country from these schools, education must, so to speak be incorporated into the body politic and made to tell in its effects upon the mass of the people rather upon the courts. New higher and more general motives must be brought to bear upon the schools, more mental discipline secured and the course of studies rendered more thorough.

But to secure this we give up Bengalee by no means. I would have the course in Bengalee rendered more extensive and thorough. This seems absolutely necessary so long as the business of the courts is conducted in that language. Besides, Bengalee has so much it seems desirable that the literature of Bengalee should be thrown open to the Assamese. But I would make this the complection rather than the foundation of education.

I would have the children carried through their elementary studies in the vernacular. When the children are able to read and some what interested in studies I would then introduce Bengalee.

Danforth further added "We might as welll think of creating love of knowledge in the minds of a stupid English boy by attempting to teach him French before he knew anything of the rudiments of English. To my mind this feature of the educational policy pursued in Assam is not only absurd but destructive of the highest motives of education and must necessarily cripple the advancement of schools as separate them from the sympathise of the people."

from the villagers. Parents would not send their children to them for instruction. Therefore, in 1893-94, Government ordered that no provision should be made in the budget for the frontier school unless there was a prospect of their being started and maintained with some benefit to the inhabitants. It was also decided that schools started should not be abolished without sufficient trial.

Prior to 1871, there were tols and muktabs which imparted

Danforth gave another reason why Assamese should be the medium of instruction. "The exact sciences should be taught in the vernacular. The object of these sciences is to excite inquiry, call out the reasoning powers and develop and discipline the mind. Such knowledge should therefore be conveyed though the most natural channels of thought so that the whole mind may be occupied untrammelled by the medium. To the ignorant, stupid and bigoted people like the Assamese, abstract studies are often difficult and unattractive even when communicated in the most common language, how much more it must be when veiled in a foreign togue . . and knowledge when acquired (through a foreign tongue) will lie as a foreign material in the mind, which will never be appropriated for the good of the country."

Ibid. Appendix. J. Observations on the administration of Assam by Anandaram Dhakeal Phookan. Anandaram Phookan suggested Assamese as the medium of instruction in schools, publication of a series of popular works in foreign languages in Assamese. Phookan, did not suggest the complete elimination of Bengalee. "On the contrary we are of opinion that it should be cultivated as a language indispensable for the completion of the course of vernacular education and that standard Bengalee works should likewise be introduced in the higher classes. We are only opposed to its exclusive adoption as the medium of instructing the people. . . . . "

In 1862, Col. Houghton contended that Assamese and Bengalee were different and so he pleaded for the adoption of Assamese as the language of the court and schools. But the Government of Bengal did not agree to his proposal.

See Letter No. 1253 T. General. Calcutta 4-9-1865. "The real difference between the two languages, if indeed Assamese can be called a separate language is confined to a very small number of vocable and consist of chiefly in inflexions and terminations. The character used both for Bengalee and Assemese is one and the same and while Bengalee has a considerable literature consisting both of original works and of translations and more than one good dictionary, there is no Assamese literature except a few bad translations of elementary English books or anything deserving the name of a dictionary.

purely religious instruction and some primary schools which were directly the result of the exertions of the education department. There was, however, no administrative machinery for the control of education. When the scheme for the extension of primary education was inaugurated by Sir George Campbell's resolution of September 30, 1872, a large number of primary schools were started in the hope of obtaining Government aid. In 1872. there were 204 primary schools with an attendance of 4,395 pupils. In 1881, there were 1,241 primary schools with an aggregate attendance of 33,978 pupils. Primary schools in Assam were of two kinds, schools managed by the education department and schools managed by the Missions.

The administration of education was entrusted to a committee in each district whose chairman was the Deputy Commissioner. He was responsible for the general control of primary education including the administration of primary education grant-in-aid, the conduct of examinations for the award of scholarships and the management of third grade normal schools for the training of gurus. He could consult any educational officer on matters relating to primary education and of the courses of study in the primary schools.

The Inspector of Schools could bring to the notice of the Deputy Commissioner any point of importance relating so primary education and to offer any suggestions thereon. But the latter was not bound to act according to the advice of the former. All differences of opinion between the Deputy Commissioner and the Inspector had to be referred to the Chief Commissioner whose decision was final.

The District Committee, besides assisting the Deputy Commissioner in the administration of primary education was also responsible for the maintenance of their buildings, the management of their finances and the settlement of questions of discipline that might be referred to it by the headmaster of the school. But it had no voice in the determination of the course of instruction and the appointment and promotion of teachers.

The Deputy Commissioner was the ex-officio visitor of all schools in his jurisdiction with power to make recommendation and suggestion to the Inspector or the Chief Commissioner through the Inspector of Schools.

The Inspector of Schools was directly responsible for the

management of secondary schools including the administration of the grant-in-aid and the supervision of aided schools. He was also responsible for the management of all middle schools and lower government aided schools including the appointment, promotion and transfer of all teachers in those schools and the selection of text books for all schools other than primary. He could recommend text books for primary schools.

As regards grants in aid the Inspector had to refer all applications for grants-in-aid to the Deputy Commissioner for his opinion. In case of difference of opinion between the two, the question had to be referred to the Chief Commissioner whose decision was final. If the Inspector desired to withdraw grant in aid from any school the matter had to be referred to the Deputy Commissioner for his opinion In the award of scholarships, the Inspector had to inform himself beforehand whether the Deputy Commissioner wished any portion upto one-third of the whole number to be reserved for schools situated in the backward parts of the district.

In 1880, the District Committees on Public Instruction were abolished and school sub-committees were established with the Deputy Commissioner as chairman. The committee was responsible for the control and supervision of primary education. The school sub-committee was authorised to spend the amount allotted by the District Committee.

From 1879 onwards the local boards were concerned with the administration of elementary education, particularly vernacular schools. But the primary schools maintained by them were incomplete vernacular schools. If funds permitted they could provide instruction upto middle school standard. The municipal boards could provide educational facilities upto matriculation standard. The panchayats could provide educational facilities upto the primary standard. But none of them had authority to maintain colleges. Nor had they the power to introduce compulsory elementary education. It was in 1926, that the local authorities were authorised to introduce compulsory elementary education.

Under the Local Boards Acts, 1915 and 1953, the local boards had power to establish schools of all classes. But they had no power to maintain an English Middle School. Nor had they the power to convert a middle vernacular school into a

middle English School or into a primary school. They had also power to make maintenance grants-in-aid to schools managed by private bodies. But all grants had to be made with the previous sanction of the Inspector in the case of boys schools and the Inspectress in the case of girls schools. Again, grants might be given only to schools which satisfied certain conditions. In 1947, the Primary Education Act divested the local authorities of their power to maintain elementary schools. This function was entrusted to the Elementary Education Board. In 1954-55 middle schols and secondary schools were taken over by Government. Yet, the gaon panchayats are responsible for the maintenance of primary school buildings. Teachers are appointed and paid by the Elementary Education Board. The Study Team on Panchayat Raj, thought that it would not be desirable to transfer the primary schools to the anchalik panchayats as in other states. "Transfer of the responsibility for the maintenance of primary schools to the anchalik panchayats . . . . may be considered as a long term measure. The Team never imagined the evils inherent in a dyarchical system of administration. The panchayat is responsible for the maintenance of school buildings but not for the administration of elementary education.

Police : For some time the municipal boards alone were concerned with the maintenance of police. It was not one of their functions under the Municipal Acts of 1850 and 1864. But under the Municipal Act of 1876, they were held responsible for the maintenance of police. Though police was one of their functions it was limited merely to the supply of funds for the purpose. That is, the police force was actually appointed and controlled by Government. The estimates of expenditure was prepared by the District Superintendent of Police. The board was given an opportunity to offer its remarks but no right to approve or disapprove the estimates. It was Government that determined the proportion of the expenditure that a municipal board ought to bear. In 1881, however, the municipal boards were relieved altogether of charges on account of Police employed within the municipal limits.

Communications : Maintenance of communications was one of the earliest functions of local boards and municipalities. Yet till 1858, the construction and repair of roads other than the

great highways were undertaken occasionally. For want of regular annual repairs which every road in this country required after rains, roads were completely damaged. Sometimes, they were ploughed over and absorbed in cultivation. In the Kamrup district, communications were very defective. According to Captain Rowlett, the Principal Assistant Commissioner, the road from Gauhati to Goalpara was in a deplorable condition. In some places it was quite impassable. In Upper Assam, while population was extremely scanty and roads were therefore of comparatively little use vast sums of money were spent in making bridges. But in the Kamrup district where the population was greater roads were not looked after. Further, the machinery provided for the maintenance of roads was not adequate. Lt. Craster, the Executive Engineer of Lower Assam wrote as follows : " It is completely out of my power to commence the repair of the roads between Gauhati and Goalpara either this year or in any subsequent year as long as other roads of 300 miles continue to be under my charge. I need hardly say that it is practically impossible for a single person to visit all works during the whole season." The men in charge were at liberty to prepare bogus muster rolls. Large sums of money were spent on the repair of roads without any return. The Court of Directors took a serious view of such a state of affairs and laid down the principles to be observed by the administration. First, money ought not be frittered away on unimportant and unconnected lines of communications; second, good trunk roads ought to be made and be placed under the control of the P.W.D. Roads diverging from trunk road sought to be gradually completed. Finally, all roads need not be placed under the control of the P.W.D. So even after the constitution of the responsibility of the P.W.D. Only minor works were executed by the Branch Committee under the control and supervision of the District Committee but works of major importance were handed over to the Executive Engineer, P.W.D. He prepared the estimates and executed the works and the local authorities had no control over him. In 1882, the maintenance of most of the roads was entrusted to the local boards. In 1887, however, all communications of provincial importance such as trunk roads and the feeder roads connecting them with steamer ghats together with ferries and rest houses on such roads were trans-

ferred to the P.W.D. So in 1898, the position was as follows. The local boards were competent to undertake any public works whose cost was less than Rs. 500. All other works could be undertaken with the administrative sanction of Government.

In 1926-27, the administration of the P.W.D. roads and ferries in the Karimganj, South Sylhet and Hailakandi local boards areas were transferred to the control of the local boards concerned for a period of five years as an experiment. But almost immmediately, Government realised that the boards had no requisite staff and equipment for the purpose and took them over.

However, there has been an increase in the mileage of roads maintained by the local boards. In 1900, they maintained 3,096 miles of roads of all descriptions. But in 1950-51, it was nearly 8,000 miles. The construction and maintenance of an additional 5,000 miles within a period of fifty years was facilitated by grants given by the Central and Provincial Governments. Further planters whose prosperity depended upon good roads contributed no little for the progress of communications.

In any scheme of economic development, transport and communications play a vital part. In the case of Assam, the need for an efficient system of communications is all the more greater because except for the Link Railway line the State is separated from the rest of the Union on the one hand and on the other surrounded almost entirely by foreign states. Road Develapment programme in the State has therefore been given high priority under the Five Year Plans. In the first two plans, the road development programmes were formulated with a view to achieve the objectives set out in the Nagpur Plan which was drawn in 1943. Another plan was prepared for road development for the period 1961 to 1980. According to this plan the State should have by the end of 1981 22,000 miles of motorable roads. The mileage of roads upto the end of the Second Plan was 9,800 miles. Under the Third Plan an allocation of Rs. 8.50 crores has been made for the development of roads. Special emphasis has been given to the improvement of the existing roads with a view to enabling them to meet the requirements of increasing traffic particularly heavy vehicular traffic. About 1600 additional miles of roads are proposed to be constructed besides metalling and blacktopping about 225 miles of

roads and improving about 500 miles of existing low standard roads during the third plan period.

One of the defects of road administration was that there was no classification of roads. As a consequence, the P.W.D. has been directed to take more and more roads even in rural areas. In Madras and Andhra roads have been classified and the responsibility for the construction and maintenance of certain roads has been assigned to the local authorities. It is, therefore, desirable that roads should be classified into National Highways, State Highways, Inter-district roads and village roads. The construction and maintenance of the last two classes must be the responsibility of the local authorities.

Bye-laws: The local authorities could frame bye-laws not inconsistent with the provision of the Acts. For instance, the municipal boards had power to frame bye-laws on the conduct of business at their meetings, on the mode of collection of taxes, on the construction of cess pools, on the disposal of offensive matter, on the management of privies, on traffic in streets, on the registration of births and deaths and so on. It may however be noted that the subjects on which bye-laws may be framed are enumerated in the Acts.[1]

Under the Local Boards Act, 1915, the local boards had power to frame bye-laws only on a limited number of subjects such as transaction of business at their meetings, grant of pensions and gratuities and similar other matters. The Local Boards Act, 1953, however authorised them. to frame any bye-law for the purpose of carrying out all or any of the purposes of the Act. In addition to the power to frame bye-laws, the local authorities had also power to frame subsidiary rules.

The Panchayats also were authorised to frame bye-laws. But all bye-laws could be enforced only with the approval of Government. This power was vested in Government so that they may render expert advice on the legality of the bye-laws and secure uniformity in framing them. Generally, the bye-laws framed by the local authorities suffered from many defects. The scrutiny of these bye-laws entailed a large amount of unprofitable

[1] The municipal boards could frame bye-laws on ten subjects under the Municipal Act, 1876, seven subjects under the Municipal Act of 1884, thirty-two subjects under the Municipal Act of 1928 and on thirty subjects under the present Act.

labour. Government, therefore, framed model bye-laws for a number of purposes. These model bye-laws have acquired such a degree of authority that a bye-law framed by a local authority substantially different from the model bye-laws is rejected.

Registration of Births: At first the registration of births and deaths was not compulsory in all the municipal areas, stations and Unions in this Province. After it was made compulsory it was not accurate except in some places like Shillong, Sibsagar and Golaghat. In 1876, in all the districts the mortality rate was higher than the birth rate and as a consequence the Province appeared to be in danger of a decline in population. Government, therefore directed the Deputy Commissioners to make careful enquiries as to the real state of affairs. But inaccuracy continued to be the characteristic of the registration of vital statistics both in the urban and rural areas. Adequate steps were not taken to ensure accurate registration. In 1886-87, there was considerable improvement in the registration of vital statistics in Goalpara and Gauhati. At first the supervision of registration was entrusted to non-official members of the urban local authorities. As a consequence, the registration was very defective. Later on town sub-inspectors were appointed as Registrars but there was no improvement in the situation. A system of regarding those who had done commendable work in this respect was introduced as an experimental measure. Even this experiment was a failure. The gaonburas who were responsible for the collection of vital statistics did not consider the reward as a sufficient inducement. On the otherhand they considered the work as an added duty for which they were getting nothing. So it may be said that the registration of vital statistics was defective throughout the period.

Sanitation : The primary function of local authorities is the improvement of the sanitary condition of the local areas. The sanitary condition of the urban areas in this Province was dreadfully bad. In 1865, sickness was very great in Gauhati. There was hardly a native house in which there was not some one ill. "It is not uncommon to see dead bodies lying on the road and men lying about dying . . . . . Two men were seen lying at one of the ghats waiting for death and the dogs biting the dying men." The insanitary condition of the town affected the health of the troops and as a consequence the mortality rate

among them was great. A commission was appointed to study the question and make recommendations. It recommended that there should be a comprehensive system of sanitary administration. The Commissioner thought that sanitation was essentially a local and municipal matter, and ought to be administered by local authorities; that as a general rule the whole cost of local works of sanitary improvement and of carrying on local sanitary services ought to be borne by local funds; that the whole system of sanitary administration should rest on good municipal law; in each district there should be a district health officer to advise the local authorities on all matters affecting public health. Besides the health officer there should be a health board consisting of the principal officers and such others as should be appointed by Government; in each district there ought to be a general sanitary fund for the purpose of paying the health officer and for making special grants to local committees; if local funds in any district were insufficient to bear these charges other districts should contribute from their local funds as public health was a matter of universal importance. If possible, there should be a separate health officer in each district. If local funds did not permit the appointment of a health officer, the civil surgeon should ordinarily be appointed as the health officer.

Inspite of these recommendations, there was no improvement in the sanitary condition of the local areas. Some places like Barpeta continued to be very insanitary though the Barpeta Municipal Board was spending one-third of its income from taxation on sanitation. The Satra in Barpeta was highly insanitary. The residents of the Satra were averse to using water from public wells. The insanitary condition of Barpeta could not be improved because the Satradhikar and his followers were not amenable to reason. In Sylhet a most obnoxious practice prevailed. The Muslims buried the dead in their own compound. The Municipal Committee was unwilling to interfere with this practice on the ground that it would offend the religious feelings of the Muslim residents of the town. It was in 1901, that Government prohibited this practice under the Epidemic Diseases Act, 1897, in those areas where the density of population was great.

Even in 1915-16, the sanitary condition of most towns was defective. Government therefore, supplied sanitary ins-

pectors to municipal boards free of charge. As a consequence there was some improvement in the arrangements made for the conservancy of towns. But the fact remains that the insanitary condition of some places was proverbial. Although a majority of the municipal boards would not take the initiative to improve the sanitary condition of their localities, there were some boards which showed commendable public spirit in this respect. Realising the futility of waiting for Government grants, the Goalpara Municipal Board prepared a five year plan for the conservancy improvement and executed it with its own resources.

But rural sanitation was neglected for a long time. It was in 1889, that steps were taken to improve rural sanitation. The initiative was taken by Government of India. The Government of Assam took certain steps in this direction. It distributed Rs. 12,000 among the local boards for the purpose. The local boards were directed to spend the amount on the provision of protected water, and the establishment of proper system of drainage. They were also directed to appoint village sanitary inspectors to look after village sanitation.

Administration of Justice: One of the earliest functions of the village authorities was the administration of justice. Robinson tells us that in 1888, there were two or three panchayats consisting of two or more Assamese gentlemen in each division. They were concerned with small civil and criminal disputes. Appeals from the Panchayat Court could be taken to the next superior court and finally to the court of the Commissioner. But Gait tells us that more heinous cases were tried by the Magistrate with the assistance of a panchayat. Against his decisions both appellate and original a further appeal could be taken to the Commissioner. But it may be noted that the village authorities constituted prior to 1915 were not statutory bodies. The Local Boards Act, 1915, did not provide for the establishment of village courts. But the Panchayat Act, 1926, provided for the constitution of village Benches and village courts. The Panchayat Act, 1948, abolished the Benches and the courts and brought into existence a single court, the panchayati adalat. A similar provision is made in the Panchayat Act, 1959.

The powers and functions of the village panchayat courts varied from time to time. Under the Panchayat Act, 1926, the village bench had jurisdiction over criminal offences under the

Cattle Tresspass Act, Police Act, North Indian Ferries Act and the Indian Penal Code. It had also jurisdiction over cases which were transferred by a magistrate from one village bench to another. But it had no jurisdiction to try an European subject. Decisions of the Bench were final.'

The village court had jurisdiction over civil cases such as suits for money due on contracts, suits for the recovery of movable property suits for compensation, for wrongfully taking or injuring movable property. But the value of the suit should not exceed Rs. 200. But the village court had no jurisdiction over suits relating to the recovery of a balance of partnership account of over suits by or against Government etc. Finally, it had no jurisdiction over a suit in which not even one of the defenders resided within its jurisdiction. The decision of the village court was final. But the District Judge could direct a retrial of a suit by the same or by another village court or by any other court subordinate to him if he was satisfied that there was a miscarriage of justice.

Under the Panchayat Acts, 1948 and 1959, the panchayati adalat had both civil and criminal jurisdiction. But the panchayati adalat under the 1959 Act has wider jurisdiction than under the 1948 Act. The decision of the Adalat was final. Under the Act of 1926, the panchayat had power to inflict a fine of Rs. 25. But under the 1959 Act it has power to inflict a fine of Rs. 250. Again, under the Act of 1948, it had no jurisdiction over the offences under Vaccination Act, 1880, but under the 1959 Act it has. At first, the adalat had no jurisdiction over the offences under the Public Gambling Act, 1867, but the Act of 1959, conferred this jurisdiction. Similarly, the first two Panchayat Acts, conferred no jurisdiction over offences under the Assam Students and Juvenile Smoking Act, 1926. But the Act of 1959 conferred this jurisdiction. ...

The administration of justice in the Hill Areas is not only interesting but also democratic. In the Garo Hills, the practice was that a meeting of the villagers presided over by Lusker decided the disputes between its members. If conclusive evidence could not be produced, trial by ordeal was resorted to. Ordeals were of two kinds, Sil-so-a or ordeal by red hot iron and cho-kela-soa or ordeal by boiling water. We have two different accounts about the first, one contained in a record of the Home

Department of the Government of Assam of 1876 and the other given by Playfair Deputy Commissioner, Garo Hills, published in 1915. According to the first, a piece of metal was brought to the village smith who fasted the day previous to the day fixed for the trial and heated the metal on the appointed day at his forge. If the iron ball became red hot, the accused was guilty of the crime. But according to Playfair a metal ball was taken to the kamal or priest who heated it. When the ball was red hot he administered an oath to the person who was to undergo the ordeal. The accused person stretched his hand with palm upturned. The priest placed on it some cotton pieces and some jacktree leaves and the red hot iron ball was placed on them. The palm was then closed. If the palm was not burnt the accused was declared as not guilty of the crime.[3]

Another more dangerous ordeal practiced was that the accused person was tied to a tree in a dense forest and left alone there for several nights and days. If no tiger devoured him he was declared not guilty of the crime. The person thus acquitted appeared before the Deputy Commissioner and claimed damages from his adversary. Later on, instead of tying the accused person, a fowl, a bull or a goat was tied and if the creature was not devoured by a wild beast, the accused person was declared not guilty of the crime.

Another kind of ordeal was that the accused person was put into a long basket with a cat on his shoulders. One of his hands was left free and protruding through a hole at the top of the basket. The basket was then lowered by a rope into deep water. If the accused person was able to bring up a handful of sand and was not scratched by the cat, he was not guilty of the crime.

A fourth kind of ordeal was cho-kela-soa, boiling water. There are two accounts, one given by Playfair and the other given by a record of the Home Department. According to Playfair an egg was placed in a pot of boiling water. The accused person must dip his hand into the pot and pick up the egg. If the hand was not burnt he was not guilty of the crime. But according to the other account, if a certain amount of water

[3]. This kind of ordeal was also practised among the Daflas. It is known as roodor dindung. There was another ordeal known as chu-dung-dingdung—dipping the hand into boiling water

did not boil with a certain quantity of fuel the person accused of the crime was acquitted. The record mentions an interesting incident in this connection. One Kiban Garo fell in love with Jangsi, the daughter of Gangetta, cohabited with her for some time and deserted her. Then Digen Luskar fell in love with Jangsi but followed the example of Kibon Garo. Gangetta the mother of the girl disgusted with the love affairs of her daughter angrily remarked "You have accepted a sorcerer as your lover." Among the Garos such a remark was the cause of serious trouble. Many years ago a person who was found guilty of sorcery was generally killed but not without applying several ordeals. Later on, this practice was given up and the person suspected of sorcery was avoided by every body and no one gave his daughter in marriage to him. The remark made by Gangetta some how reached Kiban Garo the first lover of Jangsi. He enquired from Gangetta whether she made any such remark. The latter vehemently protested and denied having made any such remark. Kiban was not convinced. How to find out the truth? 'Chokkia Shoa' boiling water. A new earthen pot was filled with water and the required quantity of fuel was collected for boiling it. The test was that if the water did not boil with the prescribed quantity of fuel it was a conclusive proof that the accusation was never made. When this test was appiled Gangetta maintained that the water boiled and demanded compensation. The efforts of Kheya, a Lukma of Boldamgirl to settle the dispute were unsuccessful. So he took both the parties to the office of the Deputy Commissioner at Tura who directed them to go through the test once again in the presence of some lukmas. We may, however, note that not one test alone but several others were applied to prove the crime.

But the administration of justice in the Khasi and Jaintia Hills was most interesting and democratic. In ancient times, the Khasis decided certain cases by means of water ordeal—**ka ngam Um.** The water ordeal was of two kinds. The first was **ka ngam ksih.** It was as follows. The two disputants in a case would each of them fix a spear under water in a deep pool. They should dive and hold the spear. The man who remained longest under water without returning to the surface was adjudged by the seim and the durbar to have won the case. Col. Maxwell witnessed such an ordeal in Manipur in 1903 when two Manipuris

dived to the bottom of a river and remained there for a long time. One man who remained longer was nearly drowned. Among the Khasis, sometimes the supporters of the contending parties used to compel the divers to remain under water by holding them with their spears.

Another form of trial was to place two pots each containing a piece of gold or silver in shallow water. The contending parties were directed to plunge their hands into the water and pick up a packet. The person who brought the packet containing gold was adjudged as innocent of the crime. If both the persons brought silver or gold the case was compromised.

Rev. W. Lewis, who spent long years among the Khasis doing evangelical work in the first part of the 19th century, observes that the procedure for the settlement of disputes was ultra-democratic. A. J. Moffat Mills, in his Report on the Khasis, published in 1853, quotes approvingly, the account given by Rev. Lewis. In the Khasi Hills, the Seim administered justice. The procedure for the administration of justice was as follows. Firstly, the complaint was field before the Seim. An attempt was always made to effect a compromise between the contending parties. If unsuccessful the criers in the Khasi Hills, the Sangot in the Jaintia Hills announced the meeting of the Durbar in the evening after all the inhabitants returned to the village from their daily work. The crier yelled as follows:

"Kaw: thou, a fellow villager;
thou, a fellow creature;
thou, an old man;
thou, who art grown up;
thou, who art young;
thou, a boy;
thou, a child;
thou, thou, an infant;
thou, who art little;
thou, who art great;
Hei! because there is a contest,
Hei! for a cause to sit together,
Hei! for to cause to deliberate,
Hei! for to give intelligence together,
Hei! for to assemble in Durbar,

Hei! for to listern attentively,
Hei! Ye are forbidden,
Hei! Ye are stopped to draw water, then
not to cut firewood, then;
Hei! To go as coolies then, ...
Hei! to go to work then,
Hei! To go on journey then,
Hei! to descend to the valley then;
Hei! he who has a pouch.
Hei! he who has a bag.
Hei! now come forth;
Hei! now appear.
Hei! the hearing is to all in company.
Hei! the listening attentively then is to be
all together.
Hei! for his own king.
Hei! for his own lord, lest destruction
has come;
lest wearning away has over taken us.
Kaw, come forth now fellow mates."

This proclamation was called **Khang Shnong.** Attendance at the Durbar was compulsory. Absence was punishable with a fine. Only the adult males had the right to attend the Durbar. The Durbar ground was an open space. Flat stones served as seats for the durbaris. When all had assembled one of the headmen opened the proceedings with a long speech. Then other speeches followed. Thereafter, the parties to the dispute threw on the ground their turbans or a bag containing betel pan and lime in front of the Durbar merely indicating their readiness to accept the decision of the durbar. The Durbar was presided over by the Seim. He was the judge and the Durbar was the jury. The parties engaged pleaders. Witnesses were examined on oath. The oath was taken on a pinch of salt placed on a sword. Sometimes the Durbar went on for several days. The Siem summed up the case and the Durbar gave the judgment. The punishment was generally a fine in money and the presentation of a pig which was eaten up by the Siem and the durbaris.

Water Supply—Municipal: On September 30, 1883, the

chairman and the commissioners of the Gauhati Municipal Board submitted an application for a loan of Rs. 38,000 on the security of Gauhati Town Fund, redeemable in twenty years for the supply of protected water to the inhabitants of Gauhati. Government sanctioned the loan and the preparation of the scheme was entrusted to Major Williams, Executive Engineer, Shillong.[4] The scheme prepared by Major Williams was calculated to supply twenty gallons per capita per day or 2,00,000 gallons a day. The Brahmaputra would be the source from which water would be drawn.[5] The total cost of the entire scheme was Rs. 38,214. The scheme was completed and handed over to the municipal board on June 1, 1887.[6]

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[4]. There is an obelisk in the compound of the Shillong Club. Shillong, perpetuating the memory of Mr. Williams. It reads as follows. "This obelisk has been erected and an annual prize founded at Willington College, England, to perpetuate the memory of Major Williams, R.E., for nearly 12 years Executive Engineer of the Khasi and Jaintia Hills who died at Shillong, 4th of July 1886, deeply regretted by all who knew him."

[5]. It contemplated the construction of a well at Sukleswar Ghat, the depth of which would be such that ample water would filter into it from the river. In 1883, the population of Gauhati was 10,000. Since a great deal of washing was done at the river and at the ponds, Major Williams thought that a supply of ten gallons per capita per day would be sufficient.

Even this, according to him, was a liberal provision. Taking 1,00,000 gallons as the quantity required he proposed to instal a pumping engine which would deliver 2,00,000 gallons per day so that twenty gallons per capita might be supplied if necessary. The engine was expected to pump 200 gallons per minute to a height of eighty feet. The scheme provided two filter beds each with a capacity of 2,00,000 gallons for the purification of water. The filtered water would be stored in a reservoir which would hold 35,000 gallons.

[6] For the maintenance of water works the existing Act did not authorise the municipal board the levy of water tax. But the Bengal Municipal Act, 1884, provided for the levy and collection of water rate. So, on June 26, 1887, the Municipal Board, Gauhati, requested the Government to introduce the Municipal Act, 1884 in Gauhati. On March 8, 1888, the Act was brought into force and on the same day the Board resolved to levy a general rate of six percent on holdings situated on any road supplied with water and five percent on holding on any road not supplied with water. The rates levied were the maximum rates permissible under the Act. The tax on holdings provided with water connections was Rs. 24 per annum per hold-

Within five years after the introduction of the water supply scheme there was a crisis in its life. In March 1891, it broke down.[7]

In 1895, the board requested Government to take over the management and control of the water works because the water works staff employed by the board did not possess the requisite technical skill. Accordingly, the Gauhati Municipal Water Suppply Department was placed under the control of the P.W.D. in 1896. On November 13, 1897, Government wrote off Rs. 29,000 being the balance of the loan due from the board on account of the water works.

On June 19, 1912, the Gauhati Municipal Board in its address presented to the Chief Commissioner, said, "The most pressing necessity of the town is the improvement and extension of water works", and requested Government for a further grant. The Chief Commissioner replied that Government had been extremely generous that the water works department of the board was being managed by the P.W.D. at a considerable loss to Government. However, he promised to look into the matter and appointed a strong committee to advice the Government on the measures to be taken to streamline the water works administration.[8]

The population of Gauhati in 1912 was 12,500 and the per capita supply of water was eight gallons per day. To increase the per capita suppy of water, Government sanctioned a new filter bed and a clear water reservior.

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ings whose monthly valuation did not exceed Rs. 30 and Rs. 48 when it exceeded Rs. 30.

7. The Deputy Commissioner, Kamrup recommended a grant of Rs. 2,000 to the municipal board for its maintenance. But Government refused to sanction the amount for the purpose. Further, the municipal board was not in a position to redeem its debt contracted for the construction of water works. Above all, the municipal board demonstrated its sheer incompetence in managing the water works.

8. In 1912, the position of Gauhati water works was as follows. The total quantity of water available for supply during the most favourable part of the year was 1,54,188 gallons per day. Of this 26,800 gallons were utilised for cleaning the tanks and for the boiler. Thus, the actual supply was about 1,28,000 gallons per day. Of this 13,000 gallons were supplied to industrial concerns. So 1,15,000 gallons were available for domestic consumption.

There was, however, a great defect in the supply of water. The principal mains were over tapped before water reached Fansi Bazar with the result that the pressure for Fansi Bazar and the western portions of the town was low. To obviate this difficulty, the Executive Engineer, suggested that a subsidiary reservoir should be constructed in the compound of the Deputy Commissioner, Kamrup to hold about 20,000 gallons of water so that Pan Bazar, Fansi Bazar and the western portions of the town might be served well. This subsidiary reservoir could be filled up during the night through the mains from the tanks at the upper steamer ghat. The committee appointed by Government in 1912, accepted the recommendations. It also decided to cons truct a third filter bed. The committee made a number of recommendations calculated to improve the supply of water in Gauhati. The Government sanctioned a non-recurring grant of Rs. 6,500 to the municipal board to meet a portion of the cost of the proposed improvement. It also promised to gvie a loan of Rs. 10,000 for the purpose.

One of the findings of the committee was that there was a great deal of wastage of water. The committee therefore suggested the introduction of the meter system. Government accepted this recommendation and made a grant of Rs. 11,660 for this purpose.[9]

Since 1896-97, Government was meeting the deficit in the Gauhati Water Works budget. In 1924, however, it thought that it was not fair to the general taxpayer that the deficit in the budget of a particular municipal board should be met from the general funds. So the board was informed that it was its responsibility to maintain the water works from its own funds.

In 1927, a new scheme was prepared to meet the increasing demand for the supply of water. The total cost of the scheme was Rs 2,83,639. As the board would not be able to finance the scheme from its own revenues, it applied for a grant of fifty percent of the total cost and the balance as loan. But Government rejected the request. Undeterred by this refusal the board

9. In 1920, a special grant of Rs. 24,797 was made to the board for the extension and maintenance of water works. In the next year, again, another sum of Rs. 8,809 was given as grant for improvement and maintenance. In 1924-25, the board assumed the responsibilite for the management of water works from the P. W. D.

applied for a loan of Rs. 7,000 for the purchase of an engine which was also rejected.

In 1933-34, typhoid and malaria were prevalent in Gauhati on a large scale causing a good deal of sickness in the population. The Public Health Department ascribed it to the pollution of water supply. Government ordered that certain mains should be relaid and for this purpose it sanctioned a grant of Rs. 5,000. Inspite of all these attempts, the supply of water was not satisfactory. On December 2, 1957, the municipal board once again, demonstrated its cheer incompetence to manage the water works when it resolved to handover the administration of the water works to the P.W.D. for a period of six months.

In 1958, the municipal board was informed by Government that a comprehensive water supply scheme whose estimated cost would be Rs. 102.75 lakhs was prepared by the Public Health Executive Engineer in consultation with the Central Public Health Engineering department and that the entire cost of the scheme would be advanced as loan by the Central Government. The municipal board accepted the scheme and authorised the chairman to apply for the loan. It is really remarkable that the enlightened municipal commissioners of Gauhati resolved to apply for a loan of Rs. 105 lakhs without knowing the details of the scheme. Even the chairman of the board was not aware of its details. The Public Works Department sometimes charged twenty percent of the total cost of the scheme as supervision charges. That is twenty-five lakhs may have to be paid towards technical assistance alone. A part of the scheme has been executed and the remaining part will be executed in the next five years.

Next to Gauhati, Shillong and Sylhet received attention. Thus prior to 1912, there were only three towns where protected water was supplied. In other places, water supply arrangement was unsatisfactory. Earle took keen interest in this matter and appointed committees to investigate and report in regard to water supply in places like Dhubri, Sylhet, Tezpur and Dibrugarh. He also promised to assist the municipal boards with loans so that they might provide drinking water to their inhabitants.[10]

[10]. He sanctioned Rs. 28,244 and Rs. 22,967 as grant-in-aid for the purpose to the Dhubri Municipal Board and the Golaghat Union Board.

In 1913, Government appointed a Sanitary Engineer to expedite the preparation and the technical scrutiny of water supply schemes in municipal areas. In the same year detailed estimates of the water works schemes for Tezpur, Silchar and Dhubri were approved.[11]

By 1950, only nine towns in the State had protected water supply. In Jorhat, Gauhati and Tezpur, the supply of protected water was unsatisfactory both in quatity and in quality. In other municipal areas, water was obtained from the reserved tanks, tube wells and shallow wells. In the plain district towns, where protected water was supplied the rate of supply was only eight gallons per capita per day. In the hill towns where protected water was supplied the quality of water was fairly satisfactory though the quantity was not adequate. In 1961-62, Shillong and Karimganj schemes were under execution. Survey work was completed in respect of North Gauhati, Hojai, Kokrajhar, Tinsukia and Nowgong water supply schemes.

Rural water supply: Though some interest was evinced by his predecessors, Earle appears to be the first Chief Commissioner who evinced keen interest in rural water supply. In 1888, the Government of India expressed a desire that measures for the improvement of water supply and village sanitation should be undertaken by provincial governments. How to give effect to this recommendation? Where streams containing water fit for human consumption were already available, certain length of the stream ought to be reserved for drinking purposes only, bathing, the watering of cattle and the washing of clothes being prohibited therein. In case streams were not available wells were to be preferred to tanks because they would be comparatively cheaper and required little supervision. If people were not willing to use wells, the construction of new tanks might be undertaken. For financial reasons, the utilization of the existing

11. Three grants, Rs. 66,666 for Tezpur Rs. 30,160 for Dhubri were given. In 1920-21, Rs. 45,613 was given as grant to the Dhubri Municipality board to cover additional expenditure on the construction of water works. In 1933-34, Government gave a special grant of Rs. 16,000 to the Tezpur Municipal Board for improving its water supply. The board after drawing the amount and spending a part of it decided upon a more ambitious and costly scheme for the supply of water to its inhabitants. We need not go into further details.

tanks was enjoined. This policy was given effect to through the agency of the local boards.

In 1893, Ward evinced some interest in rural water supply. He ordered that local boards should set apart Rs. 2,000 every year for this purpose.[1] They were also required to make systematic enquiries as to the localities in which the provision of water supply was most urgently needed. In 1894, Government ordered that water should be supplied by properly protected wells and not by digging tanks. In 1896, Cotton, however, allowed the local boards to use their discretion in regard to this matter and supply water either by wells or by tanks. In 1906, Government offered to pay one-third of the cost of water supply to the local boards provided one-third of the cost was met from their own funds and the remaining one-third by private benevolence. It was, however, found that private benevolence was not forth coming and as a consequence the supply of water in rural areas could not be undertaken. So in 1908, the rule that one-third should be met by private benevolence was modified. In 1913, Government placed at the disposal of the Commissioner Rs. 2,000 for the purpose.

Though efforts were made to supply water in rural areas they were not systematic. Many local boards failed in this respect. There were however, some exceptions. The Barpeta, Gauhati and Mangaldai local boards made systematic efforts to improve the supply of drinking water in their respective areas. Regular surveys were made in these sub-divisions.[12]

243 wells and tanks were constructed or renovated. The tanks were fenced and protected from contamination and it was a condition of grant-in-aid that the water in the tanks should be used only for drinking purposes. Yet it must be said that no systematic effort was made to maintain these tanks and wells in good condition. Even though the washing of cloths and of cattle was prohibited, this rule was honoured more in the breach than

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[12] The cost of the scheme so far as the Gauhati Local Board was concerned was Rs. 1,60,000 spread over a period of five years The Government share of the cost was Rs. 62,500. The cost of the Barpeta scheme was Rs. 65,167 and the Government contribution amounted to Rs. 43,445. The cost of the Mangaldai scheme was about Rs. 75,000 and the Government share was about Rs. 50,000.

in observance. So the main defect of rural water supply was the failure to protect the existing sources.[13]

In 1913, Earle convened a conference of leaders to consider the supply of water in rural areas. The conference arrived at a number of conclusions and as a consequence certain definite steps were taken in this direction. A sum of Rs. 10,000 was allotted to each local board for the improvement of water supply. If any local board usefully spent more than Rs. 10,000 within the current year its application for further funds would be considered favourably. Each local board had to prepare a programme for the next five years commencing from 1914-15. The Five Year Programme was estimated to cost eleven lakhs of which the Provincial Government would provide two-thirds and the local boards the balance. Unfortunately, the First World War broke out and Government was not in a position to advance funds and the local boards were not in a position to execute the schemes without financial assistance. Thus came to grief the first attempt at a comprehensive programme for rural water supply.

After the First World War, there was again some activity in this direction. In 1925-26, a sum of three lakhs corresponding to the estimated additional receipts from Court fees and Stamp (Amendment) Act was distributed among the local boards for the improvement of water supply. Suitable programmes for the utilization of the new grant were prepared by all the local boards and progress was made in some areas. But the boards were unable to spend the entire amount during the financial year. In the next year the boards concerned themselves with the completion of their programmes. During the period 1925-1928, Rs ten lakhs was distributed as grant-in-aid among the local boards but several of them were unable to spend the amount. In 1928-29, Government could not make any grant because of

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[13] The expenditure on water supply was as follows:

Year	Water Supply Rs.	Drainage Rs.
1892-93	... 22,750	8,884
1900-01	.. 44,756	3,301
1905-06	... 53,415	4,457
1911-12	... 1.14.898	1.504

the loss of revenue as a result of the Court Fee (Amendment) Act. As a consequence, rural water supply was neglected. In 1946-47, just 2.67 percent boards' free income was spent on water supply. Since 1945-46, there was a gradual increase in the expenditure on water works. In 1950-51 the total expenditure was 7.5 percent of the total income of the board. In 1961-62, water supply schemes at Tangla, Dambuk, Charring, Mirza and Sootia were taken up. The first three projects were completed during the year 1962-63. The rural water supply schemes are at present financed partly by the Planning Commission and partly by public subscription.

District Post: For a long time local boards were concerned with the maintenance of the district post. In 1906, Government thought that the local boards should be relieved of this charge. So it was taken over by the Imperial Government. The municipal boards were never concerned with the maintenance of the post offices.

Medical Relief: Medical relief was another function of the local authorities. Generally, local boards were concerned with the maintenance of hospitals and dispensaries. In proportion to population Assam was better supplied with dispensaries than Bengal. But the proportion to area was the same in both the provinces.[14]

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[14] In 1904, for instance, excluding private medical institutions, Assam had 1.90 dispensaries per 1,00,000 population. In 1934, there were 160 dispensaries managed by the local authorities, 159 by the local boards and one by the Sylhet municipal board. That is, there were 2.8 dispensaries for every one lakh population and 3.2 dispensaries per 1000 square miles. In the tribal areas, the provision of medical relief was better. It was 8.8 in the Lushai Hills, 7.2 in the Khasi Hills and 4.2 in the Naga Hills per one lakh population. But in the plain districts of Kamrup, Darrang, Nowgong, Sibsagar Lakhimpur it was less than the average—2.6 per one lakh population. In 1937, the number of dispensaries increased to 173. Of them 172 were maintained by the local boards and the remaining one by the Sylhet municipal board. In 1940, there was a slight improvement in the amount of medical relief provided. It was 2.8 per one lakh population and 3.5 per 1000 sq. miles. As usual, the Hill Areas were well provided with medical relief. It was 8.8 per one lakh population in the Lushai Hills and 6.1 in the Naga Hills, 4.7 in the Garo Hills and 3.5 in the Khasi Hills. Among the districts in the Assam Valley Sibsagar, Lakhimpur and Kamrup were not provided with adequate number of dispen-

Broadly speaking the local authorities have the following powers and functions. To begin with they have the power to elect their own chairman and vice-chairman and to remove them from office when they ceased to command their confidence. They have power to coopt qualified persons as members when no person is elected either from the scheduled castes or from the scheduled tribes and remove any member who had acquired any one of the disqualifications prescribed by the Act, to frame byelaws and other subsidiary rules for the good government of the locality, to frame their own budgets, appropriate funds and sanction expenditures. They have power to hear appeals from their own servants and tax payers against the decision of their subordinate officers.

A closer examination of the powers and functions of a local authority shows that they were performing certain functions which they ought not to. It is admitted that local authorities should confine themselves to legislative duties. When the conditions were simple, it was reasonable to entrust them with some administrative functions. But today administration has become complex. Still local authorities continue to perform a number of functions in which the members are not interested and which could properly be entrusted to some administrative officials. Among the acts of this character is the scrutiny of the paid vouchers and the right to hear appeals from the tax payers and local government officers. They are purely administrative functions which the members are not competent to perform. The only reason for such a requirement is that the members as the direct representatives of the people have a knowledge of the facts of the case. The experience of the present writer induces him to come to the conclusion that this is only a pious hope. Most of the members of a local authority have no knowledge of the facts of the case. Further, while deciding appeals most members take into consideration extraneous circumstances and not facts of the case.

Critics have also pointed out that there should be a clear division of the functions between State Government and local

saries. But we must also note that several dispensaries and hospitals which were formerly under the control of the local boards were provincialized. For instance, in 1960-61, 189 dispensaries were taken over by Government.

authorities similar to that in a federal state between the Union and the State Governments. They say that the general provision in the Act that the State Government might transfer any function to a local authority is an offence against the democratic spirit. The critics overlook the legal relation between local authorities and the State Government. The relationship is not federal. It is unitary. Local authorities are the creation of the State Government, they may be considered as its agents. So it is not constitutionally wrong if the local authorities are entrusted with agency functions. Further, a careful reading of the several provisions of the local Acts shows that rarely we come across such a provision. Even then it has no imperialistic outlook. For instance, section 37 of the Assam Local Self-Government Act, 1953, said **"It shall be lawful for the State Government to entrust the management of any road or bridge, channel building or oher property belonging to the Government to a local board with its consent."** Further, whenever the State Government entrusts a local authority with an agency function it pays the cost of its management to the local authority concerned. The State Government itself performs certain agency functions on behalf of the Union and this does not make it less democratic.

The local Acts contain another noteworthy feature. Provision is made in the Acts enabling the local authorities **"to do all things, not being inconsistent with this Act, which may be necessary to carry out the purpose of the Act."** The purpose of the Act is the better provision and administration of services. Interpreted constructively it means that local authorities may undertake any work which would promote the welfare of their inhabitants. Of course the courts of law have the final word in case of dispute between the State and the local authority concerned.

But we must also note that the distribution of functions between the gaon panchayat and the anchalik panchayat was not pragmatic. For instance, maternity and childwelfare. The efficient administration of this service requires a wider jurisdiction and greater resources than what a gaon panchayat possesses. As we had already noted the anchalik panchayat and the gaon panchayat ought not be entrusted with the development functions of economic character.

PART IV LOCAL FINANCE

"Kosamulu hi rajeti Pravadah sarvalaukikah:"
(It is a universal saying that the treasury is the root of kings).

KAMANDAKIYA NITISARA
XXI, 33

CHAPTER XV

SOURCES OF REVENUE

The most difficult problem which local authorities have to face is finance. Local Acts contain a long list of sources of revenue but most of them are inelastic and the yield from some of them is not significant. As a consequence, local administration has not been efficient. What were the various sources from which the local authorities derived their revenues? Besides loans and grants, a local authority derived its income from two main sources, taxes and fees.

Municipal Boards: The Municipal Act, 1850, contained no fixed principle of taxation but left the power to the municipal board subject to the control of Government, to determine in each place in which it might be introduced, the form which taxation might take. Thus, the Act of 1850, did not specify the sources from which the board might derive its revenues. In this respect the Act of 1864, was an improvement over the Act of 1850. It specified the sources from which the municipal board could derive its revenues. They were a rate on houses, buildings, and lands, a tax on carriages, and other wheeled vehicles without springs. The Municipal Act, 1876, not only provided for the levy of taxes enumerated in the Act of 1864 but for some more, a tax on persons occupying holdings within the municipal limits and tolls on ferries, bridges and metalled roads. The Act of 1884, added some more namely a water rate, a lighting rate and a fee for scavenging. In 1923, some other sources of revenue were added to the existing list of tax (namely, a latrine tax, a drainage tax, a tax on private markets, a fee on steamer boats and other vehicles moored at ghats or landing places main-

tained by the board. In 1931, the tax on inhabitants was abolished. In 1956 a duty on the transfer of property was added.

A hundred years ago, there was no fixed principle of taxation. Since 1864, there was a gradual development of the sources of income of the municipal boards. In 1864 the municipal boards derived their income from house tax, tax on carriages, houses and ponies and licence fee for the registration of carts. In 1965, the boards derived their revenues from a variety of sources, a tax on holdings, a water tax a lighting tax, a latrine tax,' a drainage tax, a tax on private markets, a duty on transfer of property, licence fee on carts, carriages and animals, tolls on bridges, and fees from dangerous and offensive trades.

Local Boards: Prior to 1874, there was the amalgamated road funds which consisted of the net ferry collections, net tolls from district roads, balance of the convict labour fund, balance of the Cattle Trespass Fund, receipts from fisheries, one percent of the road fund of certain districts balance of funds for the improvement of certain Government estates, net receipts from tolls on Nuddea Rivers and receipts from tolls on the Calcutta and Eastern canals. The amalgamated road fund was divided into two subordinate heads local funds and the general fund, The local fund consisted of the first eight items and the general fund the last two. The local fund was available for such works as roads, bridges etc in all districts. The general fund was available for the construction of new important roads and feeder roads and for improving and metalling the existing roads. The ferry fund committee operated this fund.

The District Committee constituted under the Local Rates Regulations of 1879, derived its revenues from the local rates on the annual value of the land. In Sylhet and Goalpara, where permanent settlement was in force, this method of assessment was not adopted. A rate was levied at two annas per cultivated acre. Of the total net local rate realised in each district 3/8 was set aside for expenditure on works of provincial importance. The remaining 5/8 was spent exclusively within the district unless the Government of India required a contribution to be made from this allotment for famine purposes. But such contribution could in no case exceed 1/4 of the net proceeds of the rate. Unspent balances of the district allotment might either be granted

to the district in the ensuing year or could be applied to general provincial puposes at the Chief Commissioner's discretion. In 1881--82, the entire local rate collected in each district after deducting the cost of collection, was made over to the local boards. Besides the local rates, other sources of income of the local boards were rents, tolls on ferries, pounds and grants from Government. In 1915, the local boards were authorised to levy a tax for the construction of railways and tramways and a toll on bridges. In 1953, the tax for the construction of railways and tramways was abolished. But the boards were given a general power to levy any tax with the previous permission of Government. It was also authorised to impose a tax or a licence fee on cinema halls, circuses, variety shows, tea stalls etc.

Anchalik Panchyat : The Anchalik Panchyat derives its reveneue from a sur-charge on duty for the transfer of property, a tax on fisheries, a cess on water rate for the recovery of costs of minor irrigation works, a licence fee from the major hats carts, carriages, cycles and boats, a tax on cultivable land lying follow for two consecutive years without any reason, a tax on brick and concrete buildings, a tax on the supply of water, a tax on conservancy and lighting, fees for licensing the cinema halls, circuses, brick and tile kilns and other dangerous and offensive trades. The anchalik panchayat fund also consisted of the proceeds of any tax, cess or any assesment assigned to the anchalik panchayat fund and such allotments as the Deputy Commissioner may make out of the sub-divisional fund, grants from the State and Union Governments, sums received by way of loans, all rents from major hats or bazaars and ferries, and a share of the land revenue which ought not to be less than ten percent of the net receipts. In 1964, it was laid down that it should not be less than 17 paise per capita of the population.

Panchayats : The village authorities constituted under the Local Boards Act, 1915, had a fund consisting of sums assigned by the local boards and the provincial government and fines realised under the Local Acts, proceeds from the village markets and receipts from ferries. Evidently, they did not derive any revenue from taxation. The Panchayat Act, 1926, authorised the panchayats to levy and collect fees for the issue of permits for grazing or for the removal of fuel or other forest produce and allotments from the village development fund. The Panchayat

Act, 1948, added fees received from the institution of civil suits, fines levied by the Panchayati Adalat and allotments from the Divisional Rural Development Fund.

Under the Panchayat Act, 1959, the panchayat derives its revenue not only from the sources mentioned above but also from hats.

Another source of income of the gaon panchayats is a share in land revenue which ought not to be less than 25 percent after providing for the cost of collection. This has been raised to 37½ percent from 1962. That is 37½ percent of the land revenue collected in a sub-division was distributed, among the anchalik panchayats and gaon panchayats on area-cum-population basis.[1]

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[1] For instance, during the period 1959 to 1962, the entire income from hats accrued to the panchayat concerned. In 1962, itwas provided that the entire sale proceeds of any hat should first be deposited in the Sub-Divisional Rural Development Fund and then distributed as follows. If the sale proceeds did not exceed Rs. 3,000 the entire amount must be made over to the Gaon Panchayat concerned within whose jurisdiction the hat was situated. If the sale proceeds exceed Rs. 3,000 but not Rs. 10,000, a sum of Rs. 3,000 must be paid to the gaon panchayat within whose jurisdiction the hat is situated and the balance to the anchalik panchayat. If the sale proceeds exceed Rs. 10,000 a sum of Rs. 3,000 must be paid to the gaon panchayat within whose jurisdiction the hat is situated, Rs. 7,000 to the anchalik panchayat within whose jurisdiction the hat is situated and the balance to the common pool. Prior to 1964, one third of the common pool was distributed among all the anchalik panchayats and the remaining 2/3 among all the gaon panchayats within the area of the Mohkuma Parishad. The basis of this distribution was area and population. In 1964, it was laid down that five percent of the common pool should be kept for meeting the expenses connected with the sale of hats and 1/3 of the balance should be distributed among all the anchalik panchayats and the remaining 2/3 among all the gaon panchayats within the area of the Mohkuma Parishad. As before, area and population should be the basis of distribution.

[2]This contribution was not in accordance with the provisions of the Act. [3]The amount of land revenue assigned to the panchayats in 1960-61 and 1961-62 at 25 percent was Rs. 32,32,928 and Rs.34,39,429 respectively. If the assignment of land revenue had been at 37½percent the amount assigned would have been Rs. 48,49,392 and Rs. 51,59,143 respectively. The total amount of land revenue grant in 1963 at 37½ percent was Rs. 51,72,912. The average for the trinnium ending with 1962-63 was Rs. 50,60,482. The total population in the rural areas

The Study Team on Panchayat Raj (1963) recommended an assignment of Land revenue on the basis of population of 50p per capita. In other words, the Study Team recommended that of the 50p, 33p should go to the gaon panchayat and 17p to the anchalik panchayat. Accordingly, the Act was amended and provision was made as recommended by the Team.

The 1959 Act also provided that the entire local rate collected from the area of the gaon sabha should be credited to the panchayat fund.[3]

So the Study Team recommended that a local rate compensatory grant of 25p per capita should be given to gaon panchayats. The Panchayat Act, 1964, provided for that.

The Panchayat Act, 1959 authorised the gaon panchayats to levy a tax on brick and concrete buildings. No panchayat imposed this tax. Practically, therefore, this provision was a dead letter. So it was suggested that instead of this selective tax, gaon panchayats may be authorised to levy a general house tax as in Madras and Andhra. A general tax even at a nominal rate of 50p per house will not only provide income to panchayats but also foster a spirit of self-help in the people for the provision of some of the essential services. The Study Team recommended that in order to encourage the people to tax themselves a house tax matching grant might be given to panchayats. The Panchayat Act was amended and provision was made for a matching grant for every rupee of the house tax collected by the gaon panchayat. The Act also provided for a matching grant for every rupees collected as surcharge on the local rate by the anchalik panchayat.

The Santanam Committee recommended that house tax, profession tax including a tax on cycles should be compulsorily levied. Panchayats may levy a tax on animals and on the

according to 1961 census is 97,86,079, and the average per capita allocation works out at 51.7 paise.

[3]The amount of local rate grant given to gaon panchayat during the three years ending with 31st March, 1963 was as follows.

1960-61 Rs. 18,29,197 : 12p
1961-62 Rs. 84,89,428 : 59p
1962-63 Rs. 28,81,924 : 57p

The average per year is about Rs. 27,16,850 or 27.7 per capita.

produce sold in the villages by weight and measurement or number. The whole or a part of the entertainment tax collected by the State in rural areas should be shared with panchayats and panchayati samities. These two bodies may levy a show tax in addition.

This survey of the sources of income of the local authorities enables us to arrive at certain conclusions. The municipal boards depended mainly on their own resources. Grants-in-aid constituted only 15 percent of their total income. They derived a major portion of their revenues from house tax, markets, conservancy tax and water rate, which constituted nearly 65 percent of their total income. The position was exactly the reverse in the case of local boards. They depended mainly on grant-in-aid from Government. Grant-in-aid constituted nearly forty percent of their total income. Next to grant-in-aid the local rate constituted nearly 35 percent of their income. The local rate was levied and collected by Government. In other words, 75 percent of their income was derived from sources which they did not levy and collect.

Another significant feature is that there has been tremendous increase in the income of the local and municipal boards.

Inspite of the tremendous increase in the finances of local authorities the fact remains that their financial condition was unsatisfactory and they could do little to improve the lot of the people within their jurisdiction. This problem was discussed by various committees.

The Local Finance Enquiry Committee recommended the following items in the Union and State lists to be reserved for the use of local bodies. Union Lists:—terminal tax on goods and passengers carried by the railways by air or by sea and taxes on railway fare and freights. State List : tax on lands and buildings, tax on mineral rights, tax on the

For instance, the income of the local boards from local rate was just Rs. 4.26 lakhs in 1885. In 1951 it was Rs. 14.51 lakhs. Similarly, the total grant-in-aid to the local boards was Rs.22.66lakhs. The total income of the municipal boards was just Rs. 1.12 lakhs in 1885. In 1951 it was Rs. 30.37 lakhs. The income from the house tax was Rs. 0.29 lakhs in 1885 but it was Rs. 5.67 lakhs in 1951. The income from water rate was very insignificant in 1885 (Rs. 1,700) but in 1951 it was Rs. 80.43 lakhs. The income from conservancy was just Rs. 604 in 1885 but in 1951 it was Rs. 4.84 lakhs.

entry of goods into a local area for consumption, tax on the consumption and sale of electricity, tax on advertisements, tax on goods and passengers, tax on luxuries including the entertainment tax.

The Taxation Enquiry Commission did not agree with these recommendations. It recommended that certain taxes should be reserved for utilization exclusively by local bodies. For instance, taxes on lands and buildings taxes on the entry of goods into the local authority area for consumption, octroi duties, taxes on vehicles and animals and boats, profession tax and a tax on advertisements. In addition to these taxes, the Commission also recommended that the entertainment tax, duty on transfer of property and tolls could be utilised by the local authorities. It also recommended that the terminal taxes on goods and passengers carried by rail sea and air should be levied by the Union Government for the benefit of the municipal authorities. But terminal taxes on goods and passengers coming by road or inland waterways should be levied by the local authorities themselves, at low rates on long distance passengers by all forms of transport. Now the question arises as to what sources of revenue ought to be allotted to the local authorities. The sources of revenue at present assigned to the local bodies, both urban and rural are no doubt suitable. But they are not adequate to meet their needs. So what are the other sources of revenue that ought to be assigned to the local bodies? Before discussing some of the points connected with this problem we may note that it will be helpful to the development of panchayats if they do not resort to taxation in the initial stages of their growth. In other words, new panchayats should be given a grant-in-aid for a specified period until it is in a position to resort to taxation.

Should panchayats have the power to levy labour tax? There is no legal objection to its levy by panchayats. Article 23 of the constitution provides that nothing shall prevent the State from imposing compulsory labour tax for public purposes so long as the State does not discriminate between persons of different religions, classes or castes while imposing such a tax. There is the risk of abuse of power and loss of revenue. So the suggestion that the usual taxes in certain circumstances be paid in kind or labour is not practicable. On the otherhand efforts may be made to get voluntary contribution in the form of shramadan.

Again, it has been suggested that local authorities ought to be permitted to tax the properties of the Union Government. There are two views on this subject. One is that while the Union Government properties may enjoy immunity from local taxation, the Union Government should adopt the practice of Governments in other countries and make contributions to the local bodies in which their properties are situated to lieu of such taxes. The second view is that in regard to properties of commercial and semi-commercial nature, the Central Government should pay to the local authorities a contribution equal to amounts which would have been paid had the general and services taxes been levied in full. In the case of other properties, the Central Government should pay the service tax.

The Santanam Committee suggested the levy of pilgrim tax in some important pilgrim centres. This is not applicable so far as Assam is concerned. There are no pilgrim centres like Tirupathi (Andhra), Rameswaram and Madurai (Madras) or Puri (Orissa). The Kamakhya in Kamrup is insignificant when compared to the places mentioned above.

It was also suggested that the Shillong Municipal Board may be permitted to levy a tax on those visiting Shillong during the summer season. Here again, it may be noted that the number of persons visiting Shillong during the summer days is insignificant and therefore the yield from this source may not be significant. Apart from this fact, a tax like this may render this hill station unpopular.

But a tax on marriages may be levied. This suggestion was made sometime in 1880. It is true that this tax may irritate some in the beginning. But with the spread of education and enlightmenment, popular prejudice may diminish. Moreover, all marriages involve an expenditure of huge amounts and the parties may not grudge to pay a small sum as tax.

Again, it has been suggested that a portion of the Motor Vehicles taxation may be assigned to the local bodies. Instead of assigning a portion of the tax to individual local bodies, the amount may be assigned to the District Development Fund for distribution as grant-in-aid to the local authorities in the district according to their needs. At present, there is the Divisional Development Fund to assist financially the local authorities. Instead of that there may be the District Development Fund to

assist all the local authorities in the district with a grant-in-aid.

The terminal taxes on goods and passengers coming by road or inland waterways and a tax on passengers at low rates on long distance passengers are also impracticable so far as Assam is concerned. One of the difficulties is that Assam imports most of the essential commodities and they come by all means, water, air, road and rail. The machinery required for the imposition and collection of this tax particularly on goods imported will be immense and the cost of administration may be enormous. So administrative difficulties preclude the levy of the tax.

Again, the suggestion that a share of certain taxes levied and collected by the State Government may be assigned to local bodies is also not desirable. Such a policy will not create a sense of responsibility in the local authorities. Instead of assigning a portion of the proceeds of the taxes a percentage of the land revenue may be allotted to the District Development Fund as suggested above for distribution among the local authorities in the district according to their needs.

However, if assignment is decided upon, revenues and grants-in-aid will have to be balanced in such a way as to secure the following results. Inequalities in resources in relation to population have to be set right; local authorities should be compelled to take certain measure of financial responsibility as then only they are likely to act as responsible bodies. They should not be made to feel that responsibility for voting the taxes is that of the legislature and that their business is only to spend the money. When a local authority wants to undertake any development function it should bear a part of the financial responsibility either by raising the existing rate of tax or by levying new taxes. The local people should be made to meet at least a part of the extra expenditure. It is true that some of the local authorities may not be in a position to undertake any development function at all on account of their financial position. The adoption of any uniform principle may hit areas which have a limited capacity to raise funds. So special assistance for such areas may have to be made. If this principle is accepted it follows that the total amount of grant available for distribution must be larger. If half of the net land revenue is assigned to the local boards as suggested by the Mehta Committee, then the amount available for distribution as specific grant in aid will be

relatively small. The result will be that there will be extravagance in the richer areas while the poorer areas will find it impossible to provide even the basic minimum needs.

Another fact that we have to remember is that before entrusting powers of taxation to local authorities, it ought to be seen that the taxes assigned to them are suitable and that they are capable of administering them equitably and effectively. Again, Government should fix the maximum and the minimum rate of taxation in appropriate cases and allow the local authorities to modify the rate of taxation according to circumstances. Further, the local Acts should contain provision which would ensure the levy of taxes. If additional sources are required by local bodies there should be further transfer of powers of taxation.

Tolls: Act VIII of 1851, authorised Government the levy of a toll on vehicles and animals specified in the schedule, to the Act. The toll levied under this Act were to be applied wholly to the construction, repair and maintenance of roads and bridges within the Presidency in which they were levied. The Marquis of Dalhousie asked the Divisional Commissioners to suggest the places where it could be introduced with advantage. The Court of Directors apprehending trouble in some places instructed the Government of India that the Act might be introduced in those localities "where great natural impediments to intercourse have hitherto existed and for the removal of which Government may have incurred an unusually large expenditure." The Commissioner of Assam suggested a number of places where toll bars ought to be established. As the roads on which the Commissioner proposed to place toll bars were the most ordinary district roads very much frequented and very necessary to be kept up but yet not answering to the description given above the idea of establishing toll bars was for the time abandoned and nothing further was done than to adopt preliminary measures towards the establishment of a few toll bars on the Grand Trunk Road. Later on, when the Government of Bengal suggested the establishment of toll bars, the Court of Directors again observed "we do not contemplate the general introduction of tolls on ordinary roads at least for the present and we have to direct that the operation of the recent Tolls Act be limited to such places as were referred to in the Despatch of 1853".

In 1855, the Bengal Governor sought permission of the Government of India for the establishment of toll bars on a large scale. He argued that he "saw no good reason why when a metalled road is made by Government, tolls should not be levied upon it in order to keep it up. Tolls are levied at the ferries without the smallest scruple. The people accustomed to that kind of taxation never complain of it and the proceeds are most beneficially used in improving and keeping up the communications to which the ferries belong. If therefore, a bridge be built where the ferry used to be or a metalled road be made to the ferry, it is difficult to perceive why a toll should not be levied in aid of the expenses. There is not more opening for oppression in the one than in the other and the reason for the toll is the same in both the cases." The Government of India accepted the recommendation and accordingly toll bars were established in certain places, but not in Assam. In 1857, the matter was again taken up because there were no funds for the metalling of roads at the rate of Rs. 3,000 per mile. Further, old roads were decaying for want of simple repairs and funds were not available. Again, tolls on ferries inter-secting highways were levied for a long time. Though the levy of tolls was open to abuse and was likely to be attended with extortion and harassment, very little complaint was ever heard on the subject. So the Lt. Governor was anxious to establish toll bars on all roads and bridges "on which it may seem advisable." The Lt. Governor assured that all possible measures would be taken to prevent the abuse of this power. The Supreme Government convinced of the arguments of fhe Bengal Government granted permission to establish toll bars. The Bengal Government informed the Commissioner of Assam that it was prepared to entertain any proposal for the gradual establishment of toll bars on district roads and bridges not under the control of the P.W.D. But the Act of 1851, authorising the levy of tolls was not brought into force at all. This Act was amended by Act 15 of 1862. The Bengal Government enquired whether the amended Act could be introduced in any place in Assam. But no action was taken.[5]

[5] Section 8 Act VIII of 1851.
Despatch No. 4 of 29-6-1859.
Despatch No. 2 of 20-8-1855.

The earlier Municipal Acts did not contemplate the levy of tolls on bridges and roads. But the Municipal Act, 1876, authorised the Municipal Boards to establish toll bars and levy tolls on any bridge or metalled road with the previous permission of Government for the recovery of expenses incurred by them in constructing purchasing or widening such bridges. As soon as the expenses and interest thereon were recovered, the toll bars had to be abolished. From the above it is evident that tolls ought not to be levied to augment the revenues of the board as in Madras prior to 1933 but just to recover the expenses. The Municipal Act, 1884 and 1923 contained a similar provision. The Municipal Act, 1956, made certain alterations in the existing situation. Under the Act, of 1923, tolls could be levied on bridges and roads whose cost was not less than Rs. 10,000. Under the Municipal Act, 1956, tolls ought to be lived only on bridges whose cost of construction is not less than Rs. 2,25,000. Since the levy of tolls is restricted to bridges whose cost of construction is not less than Rs. 2,25,000, the existence of toll bars is not considered as a hindrance to fast moving vehicles. Gauhati Municipality which is certainly the biggest municipality in the State has not a single bridge of the kind specified by the Act and therefore it may be assumed that municipal boards did not levy tolls at any time.

The Local Boards constituted under the Local Rates Regulations, 1879, had no power to levy tolls. But under the Local Boards Acts of 1915 and 1953, they had power to levy tolls on bridges. However, the conditions under which tolls could be levied were slightly different from those of the municipal boards. For instance, under the municipal Act of 1923 tolls could be levied on bridges provided the cost of it was not less than Rs. 10,000 but under the Local Boards Act, 1915, it ought not to be less than Rs. 5,000. Under the Assam Panchayat Act 1959, the local authorities had no power to levy tolls.

When two or more local authorities have jointly constructed, purchased or contributed towards the cost of construc-

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Letter No. 2198 P. W. Com. Tolls 16-6-1859.
Minute of the Hon'ble Freed Jas Halliday, 11-4-1857.
Letter No. 982 P.W.D. 4-3 1857.
Letter No. 4848 P.W.D. 20-8-1868.
Letter No. Rev. 10, 22-4-1864.

tion of a bridge, the proceeds of the tolls had to be distributed among the local bodies according to the directions given by Government.

Wherever tolls were levied Government stores, stores of the Defence Department, police officers and other officers travelling on duty and members and officers of the local authority concerned were exempted from the payment of tolls.

House Tax : House tax is the venerable mother of the Municipal taxes. This tax, called **gao dhun** was levied in Assam even before its annexation by the British. It was levied prior to 1836 on all the inhabitants of Gauhati with the exception of Government officers.[6] It was appropriated for the improvement of roads and tanks in Gauhati. When all personal taxes were abolished in Kamrup, this tax was continued and it was called house tax. In 1838, Captain Matthie, the then Collector of Kamarup while submitting his settlement of the town tax, suggested that the **onlah** should likewise be taxed. Jenkins thought the European residents of Gauhati also like other inhabitants ought to be subjected to this tax. But it may be noted that this tax was levied only in Gauhati and no where else.

In July 1852, the Commissioner of Assam sought the permission of the Bengal Government for the levy of a house tax in "Barpeta, Mungledye and Golaghat." The Board of Revenue pointed out that the tax proposed to be levied in Barpeta would be illegal. So far as the house tax at Gauhati was concerned it was not considered as illegal because it was not imposed by the British Government. As we have already noted it was the old house tax which was once levied throughout Assam and which while it was abolished by Government everywhere, was specially retained in Gauhati and utilised for municipal purposes.

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[6] The historical background of this tax was secured from the following documents :—

Letter No. 1456 Judl. 25-0-1836.
Letter No. 2 Judl. 2-12-1841.
Letter No. 96 Judl. 13-1-1852.
Letter No. 525 Judl. 24-3-1853.
Letter No. 913 Judl. 25-5-1853.
Letter No. 266 Judl. 12-2-1852.

Letter No. 1382, 27-9-1852. In Goalghat land revenue from the place was assigned to the committee for municipal purpose.

Therefore, the Board of Revenue observed that it would be extremely arbitrary to impose a tax on houses in Barpeta. It admitted that a house tax was levied in Golaghat but Government was not aware of its levy. When the Commissioner of Assam sought the permission of Government for the utilization of the proceeds of the house tax for municipal purposes, the latter enquired the authority under which the tax was imposed and collected.

As we had already noted Act XXVI of 1850 contained no fixed principle of taxation. The Municipal Board was given complete discretion to determine the mode of taxation. So the Gauhati Municipal Board converted the Gauhati **Saroo** or hearth tax into an income tax which was levied upon all incomes exceeding Rs. 5 per annum. The Panchayat Act, 1856, provided for the levy of a tax on the annual rental value of the house and land at a rate not exceeding five percent of the annual value thereof. Act III of 1864 authorised the municipal boards to impose an annual rate not exceeding ten percent of their annual value upon all houses buildings and lands within their limits. The Municipal Act, 1876, provided for the imposition of a rate on holdings situated within the municipal limits. A similar provision was made in the Municipal Act, 1884, and in the subsequent Acts. But under the Act of 1923, the rate of house tax was not fixed. In 1930, it was laid down that if the annual value of any holding exceeded Rs. 7,500 the tax on the excess amount ought to be levied at only ¼ of the percentage fixed. The Municipal Act, 1956, did not make any fundamental changes in the existing situation.

The Local Boards had no power to levy house tax. The Anchalik Panchayat has power to levy a tax on brick and concrete buildings. The village authorities created by the Local Boards Act, 1915, had no power to levy a house tax though the subsequent Acts authorised the panchayats to levy a tax on brick or concrete buildings.

Water tax and Lighting tax: The two taxes were introduced for the first time in 1884. They could be levied on the holdings situated within the area benefitted by water supply and lighting schemes. The levy of rates for water and lighting was however subject to certain conditions. The water rate should not be levied on agricultural lands or on lands consisting of tanks

or on holdings which were not situated within the prescribed distance from the nearest standpipe provided by the municipal board. The amount collected as lighting tax or water tax ought to be able to pay the cost of the scheme, its maintenance and improvement. Further, the rates ought not to be levied until the provision of the services. Finally, the holdings which were given water connections ought to pay a higher tax. The tax ought to be levied on the annual rental value of the holdings. The maximum rate at which water rate could be levied was 7½ percent since 1884.

The Anchalik Panchayat has power to levy a water tax for the recovery of the cost of minor irrigation works located within the area of the panchayat and also for their maintenance. It has also power to levy a rate for the supply of protected water and lighting.

The village panchayat had no power to levy a water rate or latrine rate under the Act of 1915 nor under its successor of 1926. Under the panchayat Act, 1948, it had power to levy a water rate but not a lighting rate. At present it has power to levy both.

Latrine Tax: Until 1923, the municipal boards had no power to levy a latrine tax. They had no doubt power to collect a fee for scavenging. But in 1923, the municipal boards were authorised to levy a latrine tax subject to certain limitations, namely it ought not to be levied on any jail, reformatory or asylum which maintained an establishment for the cleaning of latrines and cess pools. The net proceeds of the tax should not exceed the amount required for the purpose and ought not to be levied until arrangements were made for the provision of the service. The tax was levied on the annual rental value of buildings. The anchalik panchayat has also power to levy the latrine tax. The village authorities constituted under the Local Boards Act, 1915, had no power to levy a latrine tax. They were given the power to levy a tax for conservancy by the Panchayat Act of 1959.

Drainage Tax: The municipal boards had no power to levy the drainage tax until 1923. Under the Municipal Act, 1923 and of 1956, the drainage tax should be levied only on the holdings situated within the areas for which drainage scheme was approved by Government. The net proceeds of the tax should

not exceed the total cost of the scheme. The drainage tax was levied on the annual rental value of the buildings and lands.

Income Tax: Income tax was introduced for the first time in Gauhati under the Municipal Act, 1850. It was levied on all incomes exceeding Rs. 5.[1]

It must, however, be said that income tax was unpopular with a particular section of the inhabitants. The military officers of the Kamrup Regiment objected to its levy on the ground that they were the commissioned officers of the Queen; that they were temporary residents of the station and that some of them neither rented nor possessed any property within the limits of the town. So the tax was abolished in 1864.

Tolls on ferries : The Municipal Acts of 1850 and 1864 did not authorise the municipal boards to levy tolls for the use of ferries. In 1865, Government considered the transfer of the management of ferries and pounds within the municipal limits to the control of municipal boards. At first Government thought that it was not legally permissible. Subsequently it came to the conclusion that there was substantial advantage in transferring ferries and public pounds to the control of municipal boards. They would be able to construct and maintain roads and bridges with the help of the revenues derived from ferries and pounds. They would be encouraged to improve their finances and economise expenditure. But Government did not proceed beyond such thinking till 1876. The Municipal Act, 1876, authorised the municipal boards to levy and collect tolls on ferries, roads and bridges. Not only the municipal boards, the local boards also were endowed with this power. But panchayats never possessed it.

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[1] In 1859, the Gauhati Municipal Board suggested the extension of the income tax to all persons except the actual paupers. The tax, if levied on income of less than Rs. 5 a month, was expected to yield about Rs. 100. But the Lt. Governor of Bengal ordered that all persons whose income was less than Rs. 5 a month should be exempted and that persons whose income was more than Rs. 2,000 should pay Rs. 20 and those wose income was more than Rs. 8000 Rs. 30 per annum and so on. The Secretary of State for India, however, questioned the legality of levying an income tax for municipal purposes under the Municipal Act, 1850. The Advocate General held the view that the levy of income tax was not authoirsed by the Act of 1850 and that it could be devied only with the sanction of the legislature.

Tax on Markets : The Municipal Act, 1876, authorised the boards the levy of a tax on private markets at a rate not exceeding 7½ percent of the net profit derived by the owner. The Act of 1956 authorised municipal board to determine the rate of tax on private markets.

Education Cess : Local and municipal boards could levy an education cess for financing compulsory elementary education. It was levied on persons residing or holding property in the area. But no person was liable to pay the cess if his children had been exempted from attending the school. The condition under which it could be imposed was that the yield must be equal to one-third of the estimated additional cost on compulsory elementary education. At present the local and municipal boards have no power to levy education cess as elementary education was transferred to the control of school boards.

Duty on transfer of property : In addition to the mutation fee a duty on transfer of property is levied in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899, as in force.

Tax on persons : This was purely an urban tax which was introduced for the first time by Act XX of 1856. The Act authorised the panchayat to levy a tax on persons according to circumstances and property to be protected.[8]

The Panchayat Act, 1870 also provided that all owners or occupiers of houses in any village were liable to pay the tax according to circumstances and the property to be protected provided the amount to be assessed on any one person was not to be more than one rupee per month. The Municipal Acts of 1876 and 1884, also authorised the municipal boards to levy a tax on person according to circumstances and property.

For a long time, several municipal board were levying this tax. In 1886-87, the Gauhati Municipal Board alone levied a house tax instead of a tax on persons. Later on, however, all municipal boards excepting Golaghat in the Assam Valley and a majority of the boards in the Sylhet district abandoned the tax.

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[8] The aggregate sum to be raised by such a tax ought not to exceed annas two per month for each house, and the amount assessed in respect of any house was not to exceed the pay of the chaukidar of the lowest grade.

on persons and adopted house tax because there was great deal of inequity in its assessment and collection. In 1931, it was abolished. It may be noted that a tax on inhabitants and a tax on holdings ought not to be levied simultaneously in respect of the same premises.

Tax on carriages : A tax on all carriages horses, ponies and mules was levied since 1864 by the municipal and panchayat boards. In the panchayats, however, it was not a tax but a licence fee.

Railway cess : The local boards were authorised to levy a railway cess for the construction of light railways by the Local Boards Act, 1915, subject to the condition that a resolution proposing the levy of a railway cess was passed at two meetings of the board held at an interval of six months. At these meetings 3/4 of the members were to be present. The resolution was to be submitted to the Chief Commissioner, through the Commissioner for his approval. The Finance Department, was to be satisfied that there was sufficient reason for the levy of the tax. Provision was made for the levy of this tax because there was a demand for light railways. But it was not possible for Government to finance or guarantee an income from the projects. Private capital was not forthcoming without a guarantee from Government for the repayment of capital together with interest. So, if a locality wanted a light railway and could not provide funds for the purpose, it was reasonable that they ought to be allowed to tax themselves and improve the communications. Of course, it was not obligatory on the part of a local board to levy the tax. By providing for the levy of the tax, Government was following the Madras precedent. In the old Madras Presidency five district boards, constructed light railways with the help of railway cess. In Bengal however, the district boards constructed light railways without levying a cess because their financial position was sound. Although provision was made for the levy of a rate for the construction of railways, no local board in Assam levied it and therefore the provision in the Act was a dead letter. In 1953, this provision was omitted. The municipal boards never possessed the power to levy a railway cess although they were permitted to undertake the construction of light railways.

Tax on lands : Local rate was the main source of income of the local boards during the period 1879 to 1940. It was levied

on the annual rental value of land and collected under the Local Rates Regulations of 1879. In Sylhet and Goalpara districts where permanent settlement existed the rate of taxation was fixed at Rs. 2 per acre of cultivated land. In other places it was less. Prior to 1882, 5/8 of the total collection was placed at the disposal of the local boards. Since 1882 the entire net proceeds from the local rate was placed at their disposal. In 1940, the revenues derived from local rates were merged in provincial finance and in lieu thereof a grant was made to the local boards The local boards had no power to levy a tax on lands. The anchalik panchayat has power to levy a tax on cultivable land lying fallow for two consecutive years without any reason at a rate not exceeding 25p per standard bigha of land.

Licence fees : Besides taxes the local authorities were in receipt of administrative revenues, popularly known as licence fee. The fee for the registration of carts, and other wheeled vehicles was first introduced by the Municipal Act, 1864. Since then fee was levied for a variety of purposes. In 1884, a fee for scavenging was introduced. In 1923, it was converted into a latrine tax The Local Boards had power to levy and collect licence fee on carriages and carts. In 1953 it was converted into a tax. The anchalik panchayat has power to levy a fee on major hats, carts, carriages and cycles. As regards panchayats, they had no power to levy and collect fee under the Local Boards Act, 1915. They could levy and collect fee for the issue of permits for grazing or for the removal of fuel or other forest produce in the village forests. The Panchayat Act, 1948 authorised the Adalat to levy a fee for the trial of civil suits at such rates as might be prescribed. Under the Panchayat Act, 1959, the panchayat has power to levy and collect fee for a variety of purposes.

Procedure for the assessment of taxes : Let us consider the procedure for the assessment of income tax. The first step in the process was that the municipal board had to determine the rate at which the tax should be levied. Then the list of persons liable to tax was prepared. Any one could scrutinise it. Any person who was aggrieved with the rate at which the tax was levied, could file an appeal within 15 days from the date of the publication of the list. The objectors had to be heard at a

public meeting held for the purpose. The decision of the board was final.

As regards the procedure for the assessment of tax on property it was first laid down in 1864, and it is still in force in fundamentals. The first step is the determination of the annual rental value of the holdings and the preparation of the assessment list. For this purpose, the local authority or the assessor may require the owner or occupier of the holding to furnish it with information relating to the properties to be assessed or the assessor may enter into the premises to determine the annual rental value.

The principles underlying the annual rental value are first, that a piece of property is worth what it will earn if let out from month to month. It does not mean what it will earn in any particular month in the year. Again, the actual rent need not be taken into account in determining the annual rental value, if there is reasonable ground for the belief in the existence of an illegal contract between the tenant and the landlord. If a building was in existence only for a portion of the year, the actual rent received for that period ought not to be spread over the whole year to arrive at the gross annual rental value. While determining the annual rental value such factors as geographical location, the adaptability of the building for several purposes and such other factors have to be taken into account. If it was not possible to fix the annual rental value of a building, a certain percentage of the capital cost of the building ought to be adopted as the annual rental value.

The procedure prescribed for the assessment of Government property was different from that of private property. The board had to give a notice to the Executive Engineer about the assessment made by the municipal board. The Executive Engineer should at once scrutinise the assessment fixed by the board and certify that it was correct.

Restrictions: The Municipal Acts laid down certain restrictions on the power to impose a tax on properties. *First*, water tax had to be imposed only on holdings situated within the municipal limits. *Second*, it ought not to be imposed on land used exclusively for the purpose of agriculture or on holdings consisting of only tanks. *Third*, the latrine tax ought not to be levied on jails, reformatory schools, lunatic asylums, schools,

colleges or hospitals in which an establishment is maintained for their maintenance. *Fourth*, the drainage tax had to restricted to buildings benefitted by the drainage system. *Fifth*, none of the service taxes like the water tax, the latrine tax, the drainage tax and the lighting tax ought to be levied without providing the services concerned and had to be restricted to buildings and areas benefitted by them. *Sixth*, the net proceeds of any one of these taxes ought not to exceed the amount required for the purpose. *Seventh*, again, no tax should be levied on any holding whose annual rental value did not exceed Rs. 6 per annum provided its owner was not assessed to income tax or profession tax. *Eighth*, when the board had taken, a loan from Government or guaranteed by it, the local authority should not without the previous sanction of Government make any alterations in respect of any tax which would have the effect of reducing the income of the board. *Ninth*, in the case of residental buildings and their holdings the annual rental value had to be reduced by 25 percent. Perhaps this was intended to cover the depreciation charges. If this was the intention, an invidious distinction was made between holdings with residential buildings and holdings without them. A reosonable amount ought to have been allowed as depreciation charges on all buildings. *Finally*, when the annual rental value of any building exceeded Rs. 7,500 the tax on the excess amount ought to be levied at 1/4 of the rate a provision which may enable the capitalist enterprises to escape the burden of taxation.

Machinery for the assessment of property : The machinery devised for the determination of the annual rental value of private holdings was absolutely unsatisfactory. Under the Municipal Acts, 1864, 1876, 1884 and 1923, the municipal board was the authority to fix the annual rental value of the buildings. In practice various methods were adopted for the determination of the annual rental value. In some places, members of the municipal boards were appointed as assessors. Sometimes Government appointed one of its officers for the general revision of the property tax. Where an assessor was appointed by Government or by the Board, he worked under the general supervision of the chairman or vice-chairman. After the draft assessment list had been prepared by the assessor, copies of it relating to each ward were sent to the respective ward commissioners who checked it and submitted their reports to the board. The draft assessment

list approved by the board was published for public information. Sometimes the municipal board appointed a committee consisting of municipal commissioners to scrutinise the draft assessment list prepared by the assessor. In some places the chairman himself undertook this business.

From the above it is evident that the machinery devised for the assessment of property tax was neither adequate nor efficient. As a consequence, the ideal of fair and equitable assessment did not exist. Valuation was made on principles which were not ascertainable. Further, valuations were altered by the revision committees without assigning valid reasons and very often without jurisdiction. The blame for this state of affairs must be shared both by municipal boards and Government. When Government offered the services of an experienced officer for the general revision of property tax, the municipal boards refused to accept it. When a municipal board sought the help of Government for the supply of an experienced officer for the general revision of property tax, the latter advised the former to master the principles of taxation and assessment—an advice which was neither practicable nor sound. It is true that under the Municipal Act, 1913, Government could direct the municipal boards to appoint assessors should it come to the conclusion that the assessment by the board was insufficient, excessive or inequitable. The appointment is subject to the approval of Government. Actually, however, Government interfered only when the assessment was shockingly bad as in Gauhati in 1960.

Exemptions: Certain classes of buildings were exempted from the payment of tax. Under the Municipal Act, 1864, only lands under cultivation or lands used for depasturing cattle were not liable to property tax. The Municipal Act, 1876, authorised the board to exempt persons who were too poor to pay the tax or buildings which were used exclusively for public worship. The Municipal Act 1884, extended the exemption to public burial or burning grouds and buildings used for charitable purposes. Under the Municipal Acts, 1923 and 1956, similar provision was made. But the places of public worship, public burial and burning grounds were exempted from the general property tax, water tax, and latrine tax and charitable buildings from the property tax for general purposses. They had to pay

all other taxes. Above all, buildings whose annual rental value was less than Rs. 6 were exempted from taxation.

Prior to 1935, Government properties, provincial and central, were taxed according to Local Acts. In 1935, the Government of India stated that property vested in His Majesty for the purpose of the Government of Federation should so far as any federal legislation might otherwise provide, be exempted from all taxes imposed by any authority within the province. But of course any property which was liable to taxation should pay the tax so long as the tax continued to be levied. The present constitution also contains a similar provision. Article 285 of the Constitution says that "the property of the Union, save in so far as Parliament may by law otherwise provide be exempt from all taxes imposed by a State or by an authority within the State." Thus, Parliament must permit local taxation of the Union Government property which is not paying any tax. But in regard to railway property a notification of the Government of India is enough. This exemption is based on the principle that the State is not bound by any general law unless expressly stated to be so bound. But it may also be noted that the State compensates the local authorities by making contributions in lieu of rates in respect of its properties.

Remissions: The Municipal Act, 1850, and of 1864 did not contemplate the remission of taxes on any account. All other Municipal Acts provided for the remission of a portion of the tax on vacant houses subject to the condition that they were completely vacant for sixty days or move consecutively during any year. The amount of vacancy remission was not to exceed half of the tax amount and was to be proportionate to the number of days the house was vacant. The owner of the house must have informed the municipal board that the house was completely vacant. According to local government law even the furniture ought not to be in the house. If a person is occupying only one room in the house the occupier or the owner had to pay the rate on the whole house as the assessment could not be apportioned unless there was complete structural severance. If a factory was equipped and in a condition to start operations, there was beneficial occupation and it was therefore liable to pay rates even though it was standing idle owing to strike or trade depression.

The municipal boards seem to have exercised this power injudiciously and illegally. Vacancy remission was to be granted on the ground that the tax payers had left the station and therefore the taxes were irrecoverable. This is a serious reflection on the efficiency of the collecting staff. If th collecting staff had been active and if warrants had been issued promptly the tax amount could have been collected. When the collecting staff was rewarded for good work they should have been punished for bad collection.

From 1900 to 1950, the percentage of remissions to total demand was never less than 2.5. Sometimes it went up to 5.7. Some of the municipal boards in the Assam Valley had an unenviable record in this respect.[9]

Preparation of the Assessment Register: After the determination of the annual rental value the assessment register had to be prepared. It had to give complete information with regard to the properties on which a tax was proposed to be levied. In other words, the assessment register should contain the name of the owner, or occupier, the annual rental value of the building and the amount of tax payable. A register which did not give complete information about the property assessed was not an assessment register. It must be published for public criticism. In all cases in which a property was assessed for the first time or the assessment is increased the chairman must give notice to the owner or occupier of the property.

Appeals: Appeals could be preferred on or before the date prescribed for the purpose. Under the Municipal Act, 1864, all appeals had to be enquired into by a committee consisting of not less than three members. The decision of the committee was final. The Act of 1876 contained a similar provision but it laid down a condition that the appeal had to be preferred within one month from the date of publication of notice. The

[9] The Dibrugarh Municipal Board. In 1905-06, it remitted 15.31 percent of the total demand, 11.88 percent in 1911-12, and 12.80 percent in 1915-16. Next to Dibrugarh comes Nowgong and Shillong. The Dhubri Municipal Board appears to have had a better record in this respect. The Shillong Municipal Board was superseded on the ground that it was extremely generous in granting remissions.

members of the committee were appointed by the chairman. man. But under the Act of 1884, the members of the committee were appointed by the board. The Act of 1923, laid down that appeals had to be preferred only after the payment of all taxes due from the appellant. They should be heard by a committee consisting of not more than five members or by a government officer. The chairman and the vice-chairman were the ex-officio members of the committee. The other three members were appointed by the board from among their own number. The quorum was three. But no member should take part in the decision of appeals from the ward in which he resided or the ward which he represented. The decision of the committee was final. In case the committee decided to reduce the assessment fixed by the assessor the reasons for the same had to be given. A similar provision is made in the existing Municipal Act. But the provisions in the Act were not observed. For instance, members of the ward from which appeals had to be heard were requested to attend the meetings of the committee as supernumerary members. In some places, the review committee was an adhoc committee appointed for the disposal of particular appeals. Both the practices were illegal and pernicious. Law has clearly laid down that the appeals should not be heard by a committee consisting of members representing the ward from which they emanated.

Appeals were always subject to certain conditions. They had to be preferred within the prescribed period which is one month from the date of publication of the assessment register or 15 days from the date of service of the first demand notice. The appellant should have paid all arrears of dues accumulated up to the date of publication of notice.

As regards the assessments fixed by the gaon panchayats an appeal can be taken to the anchalik panchayat whose decision is final. In regard to the assessment fixed by the anchalik panchayat an appeal can be taken to the Commissioner whose decision is final.

How have the local authorities exercised their appellate power? The municipal boards and the town committees exercised this power very liberally. As a matter of fact, there was indiscriminate and often illegal reduction of taxes. Before reducing the property tax, the properties in question were not

inspected by the committee and reductions were given without assigning any reason.

Revision of Assessment: Under the Municipal Act, 1864, periodical revision was not contemplated. It was not necessary to prepare the assessment list every year. The municipal board could adopt the valuation and the assessment contained in the list for the preceding year, with such alterations as were necessary for the following year. Under the Municipal Acts, 1876 and 1884, the assessment and valuation could be revised and amended at any time. Under the Municipal Acts of 1923 and 1956 the general revision of property tax once in five years was compulsory.

Besides the general revision there could be revision of property tax at any time if any property became liable to taxation after the preparation of the assessment register, or if the valuation of any holding was incorrectly valued or if the value of any holding increased by additions or alterations to buildings; or the owners of property could apply for the revision of property tax on the ground that the value of property had diminished.

Further, under the Municipal Acts, 1923 and 1956, Government has power to order the revision of assessment register should it come to the conclusion that the assessment was insufficient or inequitable. Government had to assume this power because sometimes there was inequitable assessment of property tax. But whenever the annual rental value of a holding is revised the person concerned must be informed.

Incidence of Taxation: The incidence of taxation varied from time to time and from place to place. It was higher in the urban areas than in the rural. It was higher in some places and lower in others.[10]

As regards local boards a comparative study of the incidence of taxation per head of population shows that there was no radical difference between one board and another nor from

[10] For instance, the incidence of taxation was generally higher in Shillong than in other places. It was always less in places like Barpeta and Golaghat. Other towns occupied a position between Gauhati and Golaghat.

time to time so far as the same board is concerned. In several cases the incidence of taxation was stationary.

Liability for the payment of Tax: Under the Municipal Act, 1850, the profession tax was collected from the assessee. As regards property tax, it was collected under the Act of 1864 from the owner of the house. But under the Acts of 1876 and 1884, if the owner did not pay the tax and if he was not residing within the municipal limits, it could be recovered from the occupier. But arrears of tax of any holding for more than one year was not to be recovered from the occupier. The Municipal Act, 1823, further provided that if any holding was occupied by more than one person the tax amount could be recovered from all the occupants in proportion to their occupation. A similar provision is made in the existing Municipal Act. Under the Panchayat Acts the owner of property was liable to pay the taxes.

Collection of Taxes: All taxes were payable in advance in quarterly instalments, but it was statutorily obligatory on the part of the local authority to serve a demand notice on the assessee, informing him the period and description of the property occupied or thing possessed for which the tax was due and the penalties that would follow if the tax was not paid within the prescribed period. The collection of a tax without the service of a demand notice was illegal. Part-payment ought not to be accepted. If the amount was not paid within the stipulated period movable property of the assessee could be attached and sold. Or prosecution could be launched.

The procedure for the destraint of property was a follows. First, a warrant of attachment had to be issued. The warrant officer could break open any outer or inner entrance door and enter the premises for the attachment of movable property. Ploughs and plough cattle, tools and implements of agriculture or trade, property belonging to others or property left behind by business concerns for safe custody ought not to be attached. The warrant officer had to make an inventory of the property attached and give a copy of it to the owner of property. Further, not less than ten days notice had to be given for the sale of property attached so that the owner might have an opportunity to pay the tax and release the properties attached. After the expiry of the period of ten days the properties were to be sold in public auction. The officers and servants of the local

authority ought not to be the bidders at the auction. If sufficient amount was not recovered even after the attachment of property prosecution could be launched, against the defaulter.[11]

The collection of taxes was unsatisfactory. Collection is said to be efficient if 99 percent of the total demand is collected. But that percentage was never attained in any year. As a matter of fact collection of taxes was sufficiently had prior to 1910-11. Since then, there has been an improvement. During the period 1910 to 1920, the collection of taxes was very good in several municipalities. But after independence, there was again a decline in the collection of taxes. The reasons are obvious. *First*, the proposals for fresh taxation were not submitted in time to Government for its sanction. *Second*, there was a failure on the part of the municipal boards to collect taxes in each quarter as they fell due. The rate payers were not able to pay the arrears at one time. *Third*, city fathers themselves did not set up a good example by themselves paying the tax in time. There is a Sanskrit saying "**yadha raja thadha praja**"—as the king so the people. *Fourth*, the penal provisions of the Act were not enforced against important defaulters like the members of the board. Even when the outstanding list was very heavy. the local bodies in many cases showed reluctance to take coercive measures against the defaulters. Even when the warrants were issued there was absence of keenness on the part of the authorities for their execution. It was not realised that efficient administration depends on the efficiency in the collection of revenues. *Fifth*, the demand notices were not issued in the quarter to which they related. Very often they accumulated for three or four quarters.

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[11] The percentage of collection of taxes was as follows.

1899-1900	...	...	...	88.17
1900-1901	...	...	...	84.98
1901-1902	...	...	...	87.80
1905-1906	...	...	...	94.76
1910-1911	...	...	...	96.00
1915-1916	...	...	...	94.59
1920-1921	...	...	...	95.69
1931-1932	...	...	...	95.57
1945-1946	...	...	...	95.13
1950-1951	...	...	...	96.74

Sixth, there was no strict supervision over the collecting staff by the executive. As a consequence of all these factors the outstanding arears were very heavy in some places. Not only the collection of taxes was poor, there was no instantaneous crediting of the amounts collected in the treasury. There were several instances of embezzlement, which occurred throughout the period under review.

Again, the auditor repeatedly urged the local authorities to take written agreements from the lessees of markets stalls and other property. Several local authorities failed to obtain agreements and as a consequence lost huge amounts because they could not produce agreements in support of their demand.

What was the cumulative effect of inefficient collection and irregular and unwarranted remissions ? The boards were not able to provide some of the essential services ; they could not pay the salaries of their establishment or the outstanding bills ; they proceeded with the diversion of special funds for ordinary purposes. In many cases, closing balances were not sufficient to cover the liabilities at the beginning of the following year.

Although many municipal boards defaulted in the collection of revenue, there were some which were models for others in the matter of collection of revenue. This may be attributed to the personality of the chairman.[13]

Not only municipal boards local boards also were guilty of the same crime. Although the local boards had adequate staff, the regular assessment of all carts plying within their jurisdiction was never made. Further, there was no regular revision of the assessment register. Taxes were realised generally on the basis of the assessment lists prepared long ago.

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[13] A.R. Municipal 1936-37. The Dibrugah municipal board for instance was a model for others as long as it was under the chairmanship of Sadanand Duwara. The record of collection of the Dibrugarh Municipal Board for the trinium 1934-37 was excellent. The Commissioner of the Assam Valley wrote "The present executive cannot but be praised for their outstanding achievement in collection of taxes. They inherited an office which was in a chaotic state with huge arrears outstanding for successive years. The present board has done wonders and if the coming elections result in the present executive being replaced by others the latter will be able to write on a clean slate there being not a piece of the arrears to collect."

CHAPTER XVI

GRANT-IN-AID

A payment from the treasury of the State Government to a local authority for the purpose of assisting that authority in carrying on a part or all its activities is ordinarily known as grant-in-aid. Essentially it is an outright donation to the local authority though the gift usually has strings tied in the form of supervision over its use. It is a modern device. Its importance was recognised within the last one hundred years. Within this period it has become a dominant feature of local government for obvious reasons.[1]

During the years, particularly from 1920, local authorities have been affected strongly by the great series of deep and far reaching changes that had accompanied the first two world wars. Expanding industrialization, increasing urbanization, speeded transport and communications and growing interdependence among the various sections of the community have all changed the character of the society which local government has been required to serve. In the first place, functions which were normally exercised by local authorities have changed radically in their relative importance and nature. At present, local authorities are called upon to undertake the gigantic task of supplying all the essential needs to their inhabitants. The health services have been expanded beyond recognition. The need for roads has multiplied. Accompanying and accentuating these changes has been the development of what may be called, humanitarianism involving demands for public education, decent housing parks, open spaces, all increasing and changing the responsibilities of the local authorities.

The Aim of : The aims of grant-in-aid are several. *First*, to transfer some of the burdens from the poorer to the richer classes. It is obvious, however, that all grants for whatever purposes they are made and in whatever way they are distributed result in transferring burdens from the local to the

[1] Chester : Centarl and Local Government. P. 124.

national taxpayers and are therefore likely to be at least some what redistributive in effect. In fact most of the major grants have been practically designed with this objective in view.

Second, by means of grants-in-aid it is possible for Government to help and even to promote an object without becoming financially or administratively responsible for it. That is, Government supports certain services which are of national concern but which can best be administered locally.

Third, a grant-in-aid enables a Government to encourage and stimulate local bodies to extend and improve their services along desirable lines and thereby secure a national minimum standard in respect of these services.

Fourth, a grant-in-aid facilities, effective cooperation between the State and Local authorities providing a means through which Government can legitimately inspect and criticise the work of local authorities and can offer effective advice. In this way, talent experience, and information available with Government are placed at the disposal of local authorities. Again, in federal countries where there is rigid division of functions and therefore direct management of certain services by the Union Government is unconstitutional, grant-in-aid system helps the accomplishment of certain objectives. In short, grant-in-aid is a device which lends great elasticity to the relationship between the State and local governments and a means by which any ordinary governmental objective may be attained. It is, therefore, no exaggeration when we say that it constitutes by far the most significant innovation in local government during the past century and its adoption had a revolutionary effect upon State and local relations.

Fifth, grants are considered almost from their very inception as subventions in relief of local rate-payers. The general view is that rates are less equitable than national taxes. The rate-payers must, therefore, be relieved from some of their burdens, particularly from the burden of supporting those governmental services, the benefits from which accrued to the country as a whole rather than merely to the local area concerned. So grant-in-aid is considered as an appropriate device for insuring that the burdens of government fall on proper shoulders. It is true that grant-in-aid alone is not the means by which this objective may be realised. Other measures may have to be

taken to achieve the same end. They are for instance, the transfer of functions from smaller to larger local authorities or from local authorities to national government, increase in the administrative area and exemption of certain classes of persons and properties from taxation. However, grant-in-aid is the chief instrument by which relief to rate-payers is given.

But the question is whether the grant-in-aid tends to redistribute local tax burdens or does it merely lighten the load of taxes by placing on the same individual heavier national taxes. These questions have not been answered satisfactorily. However, almost all local authorities argue that grants do result in improving the equity of local tax system. The basis of the contention is that rates on the whole are less equitable than national taxes. Yet, it still remains to settle whether the system of grants provides a reasonably appropriate means for remedying this defect. Even if it be admitted that local rates are less equitable than national taxes, it does not necessarily follow that the grant-in-aid system provides the best way of remedying this defect. Grants alone can never lessen the inequity of local taxes. So the better way to remedy the injustice of the local tax system is to revise that system than to adopt the grant-in-aid system. Generally, however, the grant-in-aid system has been adopted as the best expedient to attack the inequitous local tax system rather than by the fundamental revision of the tax system. It is the soothing syrup to silence the complaints of the aggrieved rate-payers.

Sixth, grants are also designed to transfer to the state and national tax payer expenditures of the local authorities which are onerous and not beneficial. Onerous expenditures are considered as those incurred on services rendered by local authorities which confer benefits not only on the area concerned but upon the entire country. Beneficial expenditure on the otherhand are defined as those which benefit only the area in which the services are rendered which do not materially affect other areas or the country at large and are therefore strictly of local concern. Expenditure on education is regarded as onerous because it is the concern of the entire country and benefits the whole country. On the other hand expenditures on residential streets, fire brigades are considered to be of exclusive benefit to the people living in the area, where the services are rendered. On

the basis of this distinction, it is held that local authorities should be compensated towards the cost of the services which are of national importance because they benefit not only the locality concerned but the country as a whole. This general line of reasoning has always been one of the most convincing and effective arguments in favour of extending the grant-in-aid system and the validity of this argument has seldom been questioned, though in recent years there has been a tendency among writers on Public Finance to deny the validity or at least the practicability of any such distinction. However, even admitting that the distinction between onerous and beneficial expenditures is legitimate, it may still be questioned whether it forms a correct basis for the distribution of grants. Only very small proportion of local expenditures are strictly beneficial expenditures.

Seventh, grants may be given to necessitous areas, areas where there is high morbidity, a large number of children of the school going age, poverty and unemployment. In these areas, tax resources are relatively limited. Sometimes, they are virtually destitute and entirely incapable of supporting even a fraction of the local services which even the most ardent idividualist will regard as most essential. Thus, the aim of grant-in-aid system may be one or more of the following, to encourage the local authorities to extend or improve their services, to distribute the burden of the cost of local government more equitably, to compensate local authorities for the loss of revenue, to transfer, the cost of a particular service from the local tax payer to the national tax-payer, provided the service has a national character rather than strictly local and finally to reduce the inequalities among the local authorities. Each of the motives led to a different basis of distribution and when two or more objectives have been combined the result has been a complex formula. But the aim of the grant has been largely promotional.

Opposition to grant-in-aid : Although grant-in-aid has come to stay, there is opposition, in some quarters, to the payment of grant-in-aid. The opponents of the grant-in-aid argue that grant-in-aid ultimately results in a transference of some of the burdens of the poor districts to the rich districst and that it is unfair to expect the richer localities to pay for services which do not benefit them. This argument assumes that benefits from local expenditures are derived by the residents of the particular

area in which money is spent. It must be obvious that local expenditures on education and health services benefit not only the people of the locality in which the expenditure is incurred but also the entire country. In fact under conditions of modern transport communication, travel and migration, any services which improves the condition of the people in one part of the country will benefit the entire country.

Second. grant-in-aid would result in the destruction of the spirit of local initiative and of local responsibility. Grants are made with strings attached. When a local authority receives a grant it must submit to the control of Government. He who pays the piper calls the tune. It is a fact no doubt that large grants tend to strip local authorities of their powers and to centralise authority in Government.

Third. larger grants to poor local authorities result merely in bolstering up and keeping alive local authorities which are so derelict that they ought to be closed down. This criticism of grant-in-aid is quite justified. When local authorities are too poor to carry on their functions steps should be taken to incorporate them with other areas so that every part of the country is equipped with a genuine and efficient local government.

Grant-in-aid is not without dangers and disadvantages. *First*, the control by Government over local authorities purchased by means of subventions may become so great as to cause the virtual extinction of genuine local government. There are many who do not regard this as a calamity. But a majority of those concerned with local government desire to preserve local autonomy. If the latter view is accepted, there is a limit beyond which it is unsafe to accept grants because the degree of control of Government over the local authorities may at that point necessarily becomes so great as to nullify local autonomy. *Second*, the supervisory aspect of the grants may lead to the development of bureaucratic control, probing into the minutest details of local government. *Third*, once grants are made it is virtually impossible to reduce or to give them up, because on the basis of their continuance numerous long term commitments are made and all kinds of vested interests grow up. Reduction or withdrawal is strenuously resisted. *Fourth*, it is extremely difficult, probably humanly impossible to achieve absolute equity in the apportionment of grants among the various local autho-

rities. Further, there is always political logrolling in connection with the apportionment of subsidies among the various parts of the country. As a consequence, there is likely to be friction between the aggrieved local authorities and Government or even among the local authorities themselves. Although, there are these dangers and disadvantages, they are not inherent nor are they insuperable.

Kinds of Grants : Grants have been classified into five kinds ; percentage grants : The percentage grant is the most usual grant. A grant is a percentage grant when Government agrees to finance a certain proportion of the net approved local expenditures on specified services.

Matching grant : Matching grant is a kind of percentage grant. Its main purpose is to induce the local authorities to undertake a particular service or to augment their resources. Against every rupee of the house tax collected by the village panchayat an equal amount is paid by Government to it as house tax matching grant. This is intended to induce the village panchayats to levy house tax and augment their resources.

The Unit Grant : The unit grant is one under which local authorities receive a certain amount for each unit of specific service rendered per pupil in attendance at school or per patient treated in a hospital or per mile of road maintained and so on.

Assigned Revenue grant : The State Legislature may assign to the local authorities the proceeds of either a specified part or the whole of one or more taxes levied, to the local authorities. Strictly, this cannot be considered a grant-in-aid. It is an administrative arrangement by which Government collects certain taxes and remits the net proceeds to the local authorities.

Formula grant : It is a grant calculated by reference to a number of factors including the necessity for the service and an allowance for the wealth or poverty of the area.

Chester thinks that this classification is not free from ambiguities. He classifies grants as follows.

(a) **Conditional grant : or Unconditional grant :** Grants-in-aid are invariably subject to the condition that the local authority must satisfy the department that it has complied with the prescribed conditions.

(b) **Specific or categorical grant :** The purest specific grant is in respect of a particular item of a local authority's many

services. For instance, half the salary of the health officer appointed by a local authority is met from the State funds.

(c) **General or block grant :** The purest general grant is a grant given towards the expenditures of an authority on all its services.

(d) **Deficiency grants :** Deficiency grants are grants whereby losses incurred by local authorities in connection with specific services are made up by grants from the State funds. Grants given to the Gauhati Municipal Board from time to time to meet the deficit in its water works department is of this kind.

(e) **Stimulating grant or Supporting grant :** It is difficult to draw a line between the two. Stimulating grant is one which is intended to stimulate a local authority to undertake a new function of to provide a need or extend a service which has been adjudged by the State legislature or Parliament to be in national interests. For instance 2/3 of the total expenditure on compulsory elementary education is paid as grant-in-aid because elementary education has been considered as a subject of national importance.

Now the question is which type of grant is better, block grant or categorical grant. As we have already noted categorical grants are grants given for the promotion of a particular service. The Advisory Committee on Inter-Governmental Relations, Washington 1960, condemned the categorical grant for various reasons. It does not provide sufficient flexibility for appropriate support of extreme variations ; spectacular and relatively unimportant problems have an advantage in competing for tax funds against less conspicuous problems even though they may be more important; categorical grants may fluctuate with fluctuations in public interest and therefore not based on an objective analysis of the facts.

The critics therefore argue that the existing categorical grants should be replaced by block grants. The block grant system is advocated because it provides maximum flexibility to the local authorities to adjust their programmes to meet the specific needs of the local authority. In other words, each local authority can use the funds in accordance with its own list of priorities. Further, under the block grant system there would be a single fund which can be used for a number of activities. But where we have a categorical grant there are separate funds which must be used

within a circumscribed programme area. Further, block grants would facilitate the use of the generalised personnel.

But the block grant system has a number of disadvantages. All the reasons given below may not be true. But in toto they are true. Block grants require larger amounts than categorical grants. If the State aid is restricted to a specific segment of the programme area in which there is a national interest, the state aid may be limited to amounts needed to encourage action by the local authorities on this particular segment. If the programme area is enlarged, as it would under a block grant system, it would also widen the area of application of national standards and controls. Categorical aids limit the interference of Government with local initiative and leadership to the filed of action aided. Again, block grants brings into existence centralization of authority in the hands of State Government. Categorical aids do not encourage centralization of authority. Further block grants impair the application of sanction for the failure of local authorities to carry out the national objectives. The broader the purpose of the grant and larger the fund into which the grant moneys are merged, the more difficult becomes the withholding of the State funds as the only sanction against the local authority concerned. A block grant dilutes the national objectives sought by the State Government since the aids are not specifically directed towards their objectives. A categorical programme, in contrast, facilitates the achievement of national goals since these goals are pinpointed by the purpose of the grant. If stimulation of action is an objective as contrasted to mere fiscal support, it cannot be achieved except through a specifically directed grant. Further, categorical grants facilitates a more precise review of the appropriation requests by classifying the specific purposes for which funds are sought. Block grants do not lessen the need for categorical grants. A specific national problem will still require the introduction of new categorical aid to obtain an immediate allocation of state funds for that purposes. Block grants do not ensure or even encourage the uniform development of programmes on a nation wide basis. Unless categorical grants are added to the block grants from time to time or portions of the block grant are earmarked for specific purposes grants will not effectively stimulate the appropriation of local funds and the development of programmes to meet new problems of national concern.

Historical Background : The beginning of state aid to local authorities are seen sometime in 1836 when Government assigned land revenue in certain towns to the Town Improvement Committees for municipal purposes. In 1872-73, when Assam formed a part of Bengal, a sum of Rs. 17,711 was added to the Bengal Provincial Assignment on account of charges debitable to the Town Improvement Fund. On the separation of Assam from Bengal it appeared that the towns to which the fund was appropriated belonged to Assam and consequently an annual allotment of Rs. 17,711 was transferred from Bengal to Assam Provincial Asssignment. This sum together with the grant of Rs. 3,641 from the provincial exchequer was distributed to the Town Improvement Committees in Assam.

Again, on the separation of Assam from Bengal in 1874, land revenue of the towns in the five upper districts of the Assam Valley was credited in the firs instance to the provincial funds but was immediately transferred to the credit of the Town Improvement Fund. In 1876, the Government of India directed that in future all land revenue derived from town lands should be credited to the head of land revenue but at the same time assigned to the provincial services a sum of Rs. 17,711 to enable the Chief Commissioner to meet all the charges hitherto debited to the Town Improvement Fund. The net result of this charge was that towns in the Assam Valley lost all the benefits from the future increase in the town land revenues. The Chief Commissioner, was however, authorised to make grants of any amount from the Provincial Revenues. Keatinge, accordingly distributed Rs. 21,300 as grant-in-aid to all the municipal and town councils except Dhubri and Goalpara. This amount was approximately the total land revenue derived from the town lands, The Dhubri Muunicipal Board was given an annual grant of Rs. 750 which was equal to land revenue from its lands. The Goalpara Municipal Board was given Rs. 500 as grant-in-aid for a specific purpose. The Silchar Station Committee was given Rs. 1,449. As grant in lieu of the income from the Khas Bazar and Janiganj Bazar and the two Jangalburi mahals taken over by Government. The Silchar Municipal Board was given Rs. 600. No grant was given to the Sylhet Municipal Board as no land revenue was derived from the town lands.

While making these grants, Keatinge did not take land reve-

nue alone as the basis of distribution. He took into consideration the needs of each town. Keatinge thought that some insignificant stations might derive more revenue from land. These grants were not altered except in the following cases. In 1885, the allotment of Rs. 5,000 to the Gauhati Municipal Board was temporarily withdrawn. The grant of Rs. 4,000 to the Sibsagar Station Committee was reduced to Rs. 3,000. Since, 1876, grants were made to other municipal boards on the same principle mentioned above. In 1892, the amount of grant was Rs. 23,000 which was exactly equal to the amount of land revenue realised in towns.

In 1892, Government proposed to revise grants-in-aid and to fix them up with reference to land revenue collected in each town and increase the amount of grant to the Shillong Station Committee from Rs. 600 to 1,500 so that the administration of the capital town might not starve for want of funds. Though the basis of distribution of grant-in-aid to municipal boards was land revenue derived from town lands, William Ward observed, "It is not, however, my intention to assign to plain towns all the land revenue collected therein. A portion will be taken from the more well to do towns and granted to Shillong." In 1895, the total amount of grant-in-aid to municipal boards was the same as in 1892. Goalpara was not given any grant because it was in a permanently settled area.

In 1895, William Ward thought that no substantial progress would be possible in the matter of sanitation unless considerable assistance was rendered by Government in the shape of additional grants to the urban local authorities. The circumstances were favourable for making substantial grants to the municipal authorities because there was an increase in land revenue. In 1893-94, the actual amount collected was Rs. 34,737 and the demand for 1894-95 was Rs. 37,000. Ward decided to distribute the entire amount as grant-in-aid to municipalities and station committees but did not wish to give to each town a grant equal to the amount derived from land revenue. The basis of distribution would be according to the requirements of each town. In accordance with this principle Government ordered the distribution of Rs. 34,000 among the municipal boards. The Gauhati Municipal Board was not given any grant from the provincial funds because it would get Rs. 10,000 from the Gauhati Local Board as grant-in-aid. Silchar would get a fixed grant of Rs. 2,000 which was approxi-

mately equal to land revenue. In 1899, these grants were continued until further orders. In 1903, Government sanctioned a grant of Rs. 10,000 to the Gauhati Municipal Board to replace the annual grant of that amount from the Gauhati local board. In 1903-04, the total amount of grant given was Rs. 67,965. The amount was larger by Rs. 30,118, than in the preceding year because of acceptance as a provincial charge of a subvention of Rs. 10,000 which the Gauhati Municipal Board was receiving from the local board Gauhati and because of contribution of Rs. 19,000 towards the special plague expenditure at Dibrugarh. The grant to Shillong town was increased from Rs. 2,500 to Rs. 2,800. During the period 1912-14, there was a decrease in the grant amount for financial reasons. Since then there was a steady increase in the amount of grant and a sudden jump during the decade ending with 1961.[1]

Local Boards: In 1879, the district committees were promised an annual grant from the provincial exchequer but the amount varied from year to year and from district to district. At first grants were made according to the needs of the district. In May 1882, Government said that the total grant to the eight districts would not be diminished unless there was a failure of the provincial revenues. In December 1882, Government reviewed the whole grant-in-aid system and found that it was not based on definite principles. But it did not try to establish the principles on which grants ought to be made. The Local Boards specified the works they wished to execute during the financial year and on the basis of these estimates grants were given. That is, the money available was distributed as grant-in-aid among the local boards after an examination of their demands. The result was that this encouraged the boards to be extravagant in their demands. The local boards assumed that the Provincial Govern-

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[1] For instance,

1836	.	. .	Rs. 3,000
1874-75	...	...	Rs. 21,800
1900-01	...	...	Rs. 23,000
1920-21	...	...	Rs. 2,33,903
1950-51	...	...	Rs. 3,08,409
1960-61	...	...	Rs. 25,27,889

ment was a **Kamadenuvu** of Mahabharata having udders with unlimited quantity of milk. So each local board prepared a deficit budget. Further, the boards themselves had no settled policy nor a settled programme because they did not know the amount that would be available for expenditure. Further, they developed the habit of asking frequently for special grants. In 1882, the situation was chaotic. So Elliot contemplated the reform of the grant-in-aid system but could not do anything in the matter. His successor Ward tried to lay down definite principles for the distribution of grants among the local boards. He thought that the boards ought to be assured of a certain amount as grant-in-aid for a period of three years so that they could prepare a development programme.

Ward left Assam before he could give effect to his ideas. Quinton who succeeded Ward brought into force the system of grant-in-aid contemplated by Ward. While fixing the amount of grant to each local board, he took into account the average expenditure for the current year and on the basis of that the grant-in-aid for each local board was fixed for the next three years. In order to provide for the growing wants of the boards an additional fixed annul grant was placed at their disposal. At the same time they were told in unambiguous terms "that under no circumstances can the amount of these grants be increased during the period for which the present arrangement will be good". In 1890, Government also informed the local boards that provincial grant would be reduced by an amount equal to the amount of expenditure on provincial roads which would be taken over by government. Prior to 1890, the amount distributed as grant-in-aid was Rs. 4,67, 300. But it was reduced to Rs. 1,40,800. That is, Government took over Rs. 3,27,500 of the local boards' annual expenditure on communications and reduced that amount from their grant-in-aid.

In 1893, Government reviewed the grant-in-aid system and fixed the amount of grant to be paid to the boards for a priod of five years commencing from 1893-94, but in lieu of the system of assigning special grants annually to the local boards, Government decided to give a single fixed grant to each board in the first year and in order to meet the growing needs of the boards, provision was made to increase the grant annually by a sum

equal to two percent of the grant made in the first year of the contract. The amount of grant to each board was fixed with due regard to its income and expenditure during the previous three years 1890-1893.

In 1892-93, the total amount of grant-in-aid to the local boards from the provincial exchequer was Rs. 1,89,832. For the next quinquennium the aggregate of grant from the provincial funds was fixed as follws.

1893-94.	Rs. 2,25,000
1894-95.	Rs. 2,55,000
1895-96.	Rs. 2,60,000
1896-97.	Rs. 2,65,000
1897-98.	Rs. 2,70,000

The local boards were informed at the same time that they should not expect any increase in the grant amount already fixed and that no application for special grant would be entertained except under extraordinary circumstances.

This order was not brought into force for obvious reasons. The settlement of the five upper Assam Valley districts in 1893, resulted in so substantial an increase in the income of the local boards of these districts that it became necessary early in 1895 to revise the amounts fixed in 1893. So, in 1895, alterations were made in the existing system of grant-in-aid. First, each local board was entitled to the entire rate realised in the locality. Second, grants made in 1893, to nine boards in the Assam Valley should be reduced by amounts aggregating to Rs. 34,000 in view of increase in local income following the reassessment of land revenue. Third, in these cases, the operation of the existing rule under which grants were increased annually by two percent was suspended. Grants given to local boards in the districts of Cachar, Sylhet and Goalpara and in the sub-division of North Lakhimpur would continue to be regulated by the orders of 1893.

The revised grants fixed in 1897-98 were continued from year to year without any increase. Excluding grants made from the Provincial Revenues to adjust the minus closing balances or on account of the Provincialization of ferries, the actual contribution during the eight years ending with 1900-01, in ordinary and special grants was as follows:

Year	Ordinary grants	Special grants	Total
	Rs.	Rs.	Rs.
1893-94	2,50,000		2,50,000
1894-95	2,18,240		2,18,240
1895-96	2,10,495		2,10,495
1896-97	2,18,651	2,000	2,20,631
1897-98	2,24,522	23,140	2,47,662
1898-99	2,24,960		2,24,960
1899-00	2,24,960		2,24,960
1900-01	2,24,960		2,24,960

The special grants made in 1897-98 were entirely due to the earthquake. Government did not contemplate the withdrawal or reduction of any grant. Grants given to the local boards were block grants fixed in nature and intended to balance receipts and expenditures. The local boards were expected to find necessary means for additional expenditures. Additional grants were made to the local boards only when additional liabilities or responsibilities were imposed. This system of grant-in-aid was in force with effect from April 1, 1895. In December 1899, Government decided to continue these grants until further orders.

In 1902-03, Government gave a special grant of Rs. 62,000 to seven local boards for the construction and improvement of feeder roads. The Tezpur local board received a non-recurring grant of Rs. 3,400 from the provincial revenues to meet additional expenditures on certain works. A grant of Rs. 6,000 was given to the Nowgong local board to compensate it for the loss of income resulting from the remission of land revenue.

In 1905, with a view to augment the resources of the local boards, the Government of India placed at the disposal of Assam Government a sum of Rs. 1,50,000 for distribution as grant-in-aid. This amount was approximately equal to one-fourth of the amount which the boards were deriving from local cesses on land. Government reserved Rs. 17,000 for distribution as special grants and allotted Rs. 1,33,000 to the various local boards according to their needs. This grant was given mainly for the maintenance and improvement of communications. Where there

was no need for the improvement of communications, the amount could be spent on the construction of roads and bridges.

In the same year, a special grant of Rs. 1,49,041 was given to the various local boards for the construction of middle and upper primary school houses.

In 1906, the local boards were relieved of all charges relating to district post and therefore there was a reduction in the amount of grant by Rs. 43,886 an amount which was equal to the amount of grant-in-aid given to the local boards for the purpose of maintenance of the district post.

Prior to 1898, the practice was to provide hospital assistants free of charge for dispensaries managed by the local boards provided the average attendance of patients per day was not less than sixteen. But in 1898, Government decided to withdraw the fee grant of hospital assistants but at the same time assured the local boards a substantial amount as grant-in-aid to meet the extra charges thus thrown upon them. But no provision was made for the increased expenditure on Hospital Assistants, as a consequence of increase in the number of dispensaries. However, the decision was not given effect to and the local boards in the Assam Valley continued to enjoy this grant. The local boards in the Sylhet district were not entitled to this grant. There was no justification for this discrimination particularly in view of the fact that the financial position of the local boards in the Assam Valley was not bad. It was therefore, suggested that the hospital assistants should be supplied only on payment of the prescribed sum and that a grant equal to the amount that they would have to pay for the services of a hospital assistant, might be made to the local boards which were already supplied with hospital assistants free of charge. So from March 1, 1911, local boards in the Assam Valley were given a grant of Rs. 15,300 towards the pay of Government sub-assistant surgeons subject to the condition that Government sub-assistant surgeons would be employed in these dispensaries.

In 1902, the lower primary schools were under the direct management of local boards. A capitation grant was given to each school based on the average attendance of pupils. This grant was in addition to the normal grant. Both grants were paid subject to the condition that the inspection report was satisfactory in respect of suitability of instruction, the thoroughness

and intelligence with which it was given, the sufficiency and suitability of the teaching staff, discipline and organization of the school.

So, in 1911, the local boards in Assam were receiving three kinds of grants, grants for general purposes, special grants for education and grants for the withdrawal of the services of the Sub-Assistant Surgeons from the local boards in the Assam Valley.

In 1912, there was a conference at Shillong to discuss the improvement of communications. As a result of this discussion considerable amount were given as grants to the local boards for the purpose. Again, Government of India, in honour of the Coronation Durbar made liberal grants for the expansion of education. In the same year, a sum of Rs. 11,17,000 was given for capital expenditure on education and Rs. 9,00,000 for sanitary improvement. Grants for capital expenditure were given with extreme care so that the local boards might not be compelled to undertake recurring expenditure. Sanitary grants were subject to the condition that local boards would bear their fair share of the cost. For instance, a local board ought to bear at least one-third of the cost of water supply scheme.

In 1912, the Government of India gave an Imperial grant of Rs. 15 lakhs for the Improvement of communication. Of this sum Rs. 9 lakhs was allotted to the local boards in the Assam Valley and Rs. 6 lakhs to the local boards in the Surma Valley. This grant was distributed among the local boards according to their needs. The Decentralization Commission recommended the rateable distribution of this grant. But Government contended that rateable basis was not a suitable one because it would adversely affect some of the local boards. Since 1913, there has been a tremendous increase in garnt-in-aid to local boards. It was as follows :

1884-85	...	...	Rs. 6,27,254
1920-21	...	...	,, 13,50,955
1950-51	...	...	,, 20,66,490
1960-61	...	...	,, 26,48,000

Panchayats : Grants were also given to panchayats since 1913. In that year a sum of Rs. 6,000 was placed at the disposal of the Commissioners for distribution through the local boards to

the village authorities for the purpose of improvement of sanitation and village roads. Since then grants were given to panchayats for various purposes.

The Santanam Committee recommended a basic minimum maintenance grant, to be shared equally by State and Central Governments, of rupee one per capita to every panchayat. Again, if a panchayat collects 75 per cent. of the entire tax demand, if may be given a matching grant of 15 per cent. of such collection which should be increased at least by one per cent. for every additional five percent collection. Again, an amount of Rs. 400 crores at Rs. 10 per capita of rural population may be allotted in the Fourth Plan for unspecified local development works to be given on a matching basis.

Purposes for which grants were given : Grants were given for a variety of purposes. The first was the general purposes grant. This was introduced for the first time in 1890, so far as local boards were concerned. It was given to all the boards excepting to the local boards of Gauhati, Habiganj, Sunamganj and Silchar, as their income was sufficient to meet all reasonable local wants. This grant was revised in 1893 and all the local boards received it. In 1907, there was reduction in the amount of this grant because of the imperialization of post office. Since 1908, there was no change until the local bodies were abolished in 1960.

Grants were given for the establishment and maintenance of hospitals and dispensaries. This grant was subject to the condition that there was a prospect of rendering medical aid to a substantial number of people ; that necessary buildings were provided; that in the case of local board dispensaries at the headquarters of the district or subdivision, not less than Rs. 30 was raised every month by way of public subscription and that sufficient funds were allotted by the local boards for their maintenance.

Grants were given for the payment of salary of the sub-assistant surgeons employed in the local board dispensaries. As we had already noted the practice prior to 1910 was to give hospital assistants free of charge wherever the average attendance exceeded sixteen per day. This principle was not extended to the 23 dispensaries in the Sylhet district. But in 1910, this concession was withdrawn and in lieu of a hispital assistant the local boards in the Assam Valley were given a grant-in-aid subject

to the condition that they would continue to employ Government sub-assistant surgeons for these dispensaries.

Under the Assam Primary Education Act, 1926, Government should pay 2/3rd of the additional cost of compulsory education to the local authorities where compulsory elementary education was introduced.

Under the Government of India Act, 1935, certain revenues hitherto credited directly to local authorities became the revenues of the province. For instance, the local rates realised under the Assam Local Rates Regulation of 1879, receipts from certain ferries, judicial fines realised under the Municipal Act became a part of the provincial revenues. To compensate the loss sustained by the local authorities, compensatory grants were given.

Grants were also given for the spread of free vernacular education, for raising the pay of the assistant masters, for the improvement of conservancy, communications and lighting for the construction of bridges, school buildings, for the clearance of jungles, for the repair of drains and the payment of cash allowances to municipal sweepers in lieu of rice concessions and free rations.

A perusal of the purposes and the amounts allotted for each one of them indicate that grants play a vital role in the financial administration of the local authorities. In 1836 a very insignificant sum—Rs. 3,000 was given as grant. In 1961-62, it was Rs. 1.50 million.

Principles of Distribution of Grant-in-aid : For a long time no principle but expediency was the basis of distribution of grant-in-aid to local authorities. In 1893, however, certain principles were laid down on the basis on which grants were given. In 1962, these principles were revised. As a general rule, the entire cost of the work should be borne by the local body which would be benefitted by it. If any financial assistance was necessary, it should be given in the form of loans. But if the cost of the work is too heavy to be wholly borne by the local body even with the assistance of a loan and nevertheless so very important and useful that it ought not to be postponed, a portion of the cost might be paid as grant-in-aid. However, before making a grant, Government ought to see whether the existing rate of taxation within the local authority concerned was reasonable. If the rate of taxation was not reasonably near the legal maximum, it ought

to be seen whether the inhabitants of the locality were in a position to bear additional taxation. Grant-in-aid should be given only after the local authority has satisfied all these tests.

As regards Imperial grants, at first, local income and actual requirements were taken as the basis of distribution. The Decentralization Commission recommended rateable distribution and that any further grant required by the poor boards might be given separately. Government, however, contended that the rateable basis was not a suitable one although it became the corner stone of the grant-in-aid system in the Surma Valley because the local boards in this region were financially equal to one another. However, rateable basis was adopted in the Assam Valley also in 1920.

Conclusion : The *first* major conclusion that can be drawn is that the amount of State gran-in-aid is increasing both in variety and magnitude since the initation of the device in 1836 and particularly after the First and Second World Wars. As a result of many developments, the grant has become a fully matured device of co-operative government. Its elements are well established ; the objctives are well defined; the apportionment and matching formulas are well laid down.

Second, Government was liberal in giving grants. In 1905, grant-in-aid constituted 36 percent of the local rates. In 1929-30, it was 62 percent of the total income of the local board in the Surma Valley and 44 percent in the Assam Valley. In 1930-31, it was 56 percent in the Surma Valley and 45 percent in the Assam Valley. In 1934-35, it was 55 percent of the total income of the local boards. The significant fact was that while in the Assam Valley the total Government grant constituted 62.2 percent of the boards' free income, in the case of Surma Valley Government grant exceeded the free income of the local boards. In other words, the local boards of the Surma Valley depended largely on Government grants to carry on their functions. Thus compared with some of the neighbouring provinces like Bengal, Uttar Pradesh and the Central Provinces and even Madras, the Government of Assam was exceptionally liberal.

Third, the grant-in-aid system was remarkably free from political pressures. As a matter of fact certain principles were followed and as a consequence, the chief pitfalls have been avoided. Government has seldom made grants amounting to more

than 60 percent of the total expenditure for particular objects and has thus left local burdens sufficiently great to check extravagance. The methods by which the amount of grant payable to any local authority have been frequently revised and have been flexible enough to compensate for the changing conditions.

Inspite of these good features the grant-in-aid system in Assam was not free from criticism. *First*, there was no equitable distribution of grant-in-aid. In 1929-30, of the total amount of Rs. 18,65,089 distributed as grant-in-aid, as much as Rs. 8,60,530 was paid to the local boards in the Surma Valley. It constituted 62 percent of the free income whereas the local boards of the Assam Valley got only 38 percent. In other words, the Surma Valley was favoured at the expense of the Assam Valley for some time.

Second, there was some amount of inequality in the distribution of grants among the local boards. It must, however, be admitted that the grant-in-aid system of the local boards was one of great complexity. Many of these grants existed for a long time with a history of their own. So it was not possible to disturb them. Local circumstances and historical facts would not permit the observance of abstract principles.

Third, there were matching grants for the promotion of such services as elementary education, water supply and housing. The matching grant system was open to one objection. Local authorities which were financially strong got more while the weaker ones got less or nothing. The adoption of such a basis acted as a barrier to social progress and the grant-in-aid system was transformed from a beneficent into a maleficient instrument.

Fourth, grants were given in aid of general purposes without examining the financial position of the local authorities. Generally, ordinary expenditures ought to be met from ordinary revenues. It is only under extraordinary circumstances that grants-in-aid of revenues should be given. But this principle was not normaly observed in Assam.

Fifth, the basis of distribution of imperial grants was wrong in principle. The adoption of rateable basis simply aggravated the economic inequalities among the local boards.

Sixth, though there is need for equalization, equalization by means of grants can be achieved only if there is block grant system. But at present grants are given for a wide variety of

subjects and for each on a different basis. There should have been a complete analysis of the situation in each area and grants ought to have been made on the basis of such an analysis. But it may be noted that if there had been no allocated grant, some of the services would not have received the attention which they deserved. It is of course true that if grants are made on a piecemeal basis, it is virtually impossible to make progress towards equalisation.

How to attain complete equalization ? Lord Balfour of Burleigh said that " before giving grants for equalization, two factors must be taken, first ability to raise funds and the necessity for expenditure on services. Having taken these two factors into consideration, grants ought to be given in such a manner that most would be given to those districts which have the lowest ability and whose expenditure is necessarily high and less to those with greatest ability and less necessity for expenditure. The point that should be emphasised is that such a plan for the distribution of grants can be employed even when the objective of the grant is to encourage local authortiies to extend or improve their services. Further, there is no reason to suppose that grants distributed on this basis would interfere with local autonomy.

At the same time it must be noted that large proportion of grants have been designed to achieve promotional objective. As a consequence, there was no equalization. So long as promotional grants are given on uniform basis and under the same conditions to all the local authorrities alike, it is obvious that richer authorities will be able to take advantage of the grants in a greater degree than the poorer areas. If for example Government offers to pay fifty percent of the approved expenses of a given service, it is clear that local authorities which can afford to indulge in large expenditures will get a greater amount of aid than the poorer authorities. Some of the poorer areas many not be able to meet any portion of the approved expenditures of any service and therefore may not get any grant-in-aid. It is nevertheless indisputable that the grant-in-aid provides an effective device for inducing the local authorities to improve and extend their services along the lines believed by the country at large to be desirable or necessary. In fact, it is on the promotional side that the grant-in-aid has been most successful. But the problem is how to reconcile the promotional aim with the equalization aim

of the grant-in-aid system. It has already been pointed out that the two objecttives can be reconciled to a great extent by taking ability and need of the locality into consideration. If, however, this involves the virtual denial of such grant to the richer areas then the promotional effect will be lost so far as these authorities are concerned. A small grant is not enough to tempt richer authorities to undertake a service which it is not otherwise disposed to undertake. Thus to a considerable extent it is not possible to combine the two principles, the principle of equalization and the promotional principle and achieve the desired result.

Then what are the principles that ought to be adopted for the distribution of grant-in-aid. First, there should be a basic general purposes grant for all local authorities. The basic grant should be assured for a reasonable period of years say five. While fixing the basic general purposes grant, resources, population and area ought to be taken into account. It should be seen that the amount of grant is adequate enough so that the local authority may be able to discharge its obligatory functions.

In addition to the basic grant, there should be promotional grants which ought to be given to a local authority on the condition that the service is maintained at a prescribed level of efficiency provided of course it has exploited all the sources of income indicated by Government.

CHAPTER XVII

LOANS TO LOCAL AUTHORITIES

At first local boards had no power to borrow as they were not regarded as local authorities by the Local Authorities Loan Act, 1876. Only the municipal board had power to borrow. It was in 1915, that local boards obtained the power to borrow. Prior to 1871, the municipal boards had power to borrow money in the open market. But in 1871, the Public Works Loan Act was passed under which the Government of India placed certain sums at the disposal of provincial governments for distribution as loans among the local authorities. In addition to loans the provincial government was authorised to advance, at its discretion, short term loans to the local bodies.

At first loans were freely given to local authorities. But in 1876 ; as a consequence of the sudden fall in the value of silver and the increasing demands upon the Imperial Treasury for capital works sufficient sums were not available for granting loans to them. Government was therefore directed not to entertain applications except for purposes which could not be postponed. But the local authorities were permitted to borrow money in the open market with the previous sanction of Government. However, the local bodies were not able to float loans in the open market except at extravagant terms and as a result many schemes had to be abandoned or postponed. So the Secretary of State for India requested the Government of India to revise its loan policy. The Government of India decided to decentralise the financial control in regard to loans. In 1889, they placed certain sums at the disposal of Government for the purpose of granting loans to local authorities on the following conditions. Loans should be sanctioned for works of general interest ; the term of a loan should not exceed thirty year; a local authority which had already an outstanding loan should not be permitted to float a loan in the open market without the sanction of Government ; in no case the amount of loan to any particular local authority should exceed Rs. 5,000.

It must, however, be said that Government had full discre-

tion in regard to the disposal of loan applications. But they were responsible for the payment of interest and repayment of capital to the Government of India. This arrangement which existed till 1937 was defective. The allotment of funds for local loan purposes depended upon the state of finances of the central government. The result was that many schemes were abandoned for want of funds. In 1937, as a result of the constitutional changes introduced by the Government of India Act, 1935, Government was authorised to borrow money in the open market. This change was welcomed by the local bodies because they were now freed from dependence on the Government of India.

Loans were sanctioned subject to several conditions. *First*, in 1889, it was laid down that no loan should be sanctioned for the construction of any public work unless it was shown that a direct net revenue would be derived therefrom equal to four percent per annum on its capital cost. Insistence on this condition however resulted in the rejection of several applications for loans. Therefore it was abandoned.

Second, the purpose for which a loan was sanctioned must be within the jurisdiction of the local authority concerned or for the benefit of the inhabitants of the locality.

Third, before raising a loan in the open market or before issuing a sterling loan the Government of India was to be informed of the terms on which it would be raised and the arrangements made for the establishment of the fund. In regard to sterling loan the Government of India must be satisfied that there was a prospect of money being raised at a rate of interest not exceeding four percent. In any case the sanction of the Government of India was necessary to float a loan in the open market. This condition was imposed so that the State might have precedence over the demands of the money market and the loan operations of the money market may not clash with those of the State.

The other conditions were that the scheme for which a loan was applied for must have received the technical sanction of the prescribed authority, that no loan should be sanctioned when the board was in a position to find the required sum from other sources and the loan amount should not be diverted for any purpose other than that for which it was contracted.

A question has been raised whether these restrictions on the

borrowing power of the local bodies are necessary. The Taxation Enquiry Commission, recommended that the boards should be given the freedom to float loans in the open market. The Central Committee on L. S. G. also thought that if the local bodies were permitted to float loans in the open market it would develop a sense of responsibility. Further, local patriotism may unable them to raise loans at a cheaper rate than the rate at which loans are granted by Government. So the Taxation Enquiry Commission and the Central Committee on L. S. G. recommended that Government should guarantee the payment of interest and the repayment of capital. The Local Finance Enquiry Committee was not in favour of this idea.

Although some amount of freedom to the local authorities to float loans in the open market was suggested the fact must be recognisd that some kind of control over loan administration is necessary for obvious reasons. Local authorities out of ignorance may contract debt indiscriminately. Or a numerical majority without any monetary interest may burden the property holders with a load of debt. Or the local authorities may compete injuriously with the State and Union Government by offering a higher rate of interest. Above all, the restriction imposed on the local authorities in regard to this matter are not in any way peculiar. Even in England specific sanction must be obtained in almost every case from the appropriate authority before a loan is floated.

Redemption : All loans must be redeemed within a definite period. This condition was imposed with a view to induce the boards to be more critical of the proposed expenditure and to give stability to the financial condition of the board. Apart from this fact, the amount available for the purpose was limited. So the more rapidly the monies were paid back the more money would be available for employment elsewhere.

The period within which loans should be redeemed should not exceed the life of the work for which loan is contracted because it was not just nor equitable that those who did not derive any benefit from such a work should be asked to pay for it. If the period was shorter than the life of the work for which a loan was taken the immediate tax payer would suffer and the people who contributed nothing might enjoy the fruits of the labour of others. If the period was longer

than the life of the work a burden was cost on the shoulders of others who were not benefitted by it. Above all, the prolongation of the term of a loan might not result in a proportionate decrease of the annual charges. It would only increase the burden. A more prudent course was therefore to determine a period which would be equitable.

Prior to 1907, the period of redemption was thirty years. In that year it was fixed at twenty years for Government loans and thirty years for non-government loans. In 1914, the distinction between Government and non-government loans was abolished and a common term of thirty years was fixed for the redemption of all loans. But this period was the maximum. The actual term of every loan was determined with reference to the life of the work, the existing amount of indebtedness and the burden which the loan might impose on the local authority.

Loans could be redeemed in three ways, the sinking fund system, the instalment system and the annuity system. Under the first the entire loan amount was paid at one time out of the accumulations of the fund consisting of annual contributions of such sums determined by State Government. The payment included both interest and capital. Under the second plan the loan amount was repaid in equal instalments during the period of redemption together with interest on the diminishing balance. Under the third plan loan was paid back in equal instalments consisting of the principal and interest during the period of loan.

Of the three systems, equal instalment system is the most advantageous where the board is financially strong and can bear heavier cost in the earlier years. The sinking fund system is desirable if the staff is highly efficient and suitable investments for the contributions can be found. But this system involves the maintenance of complicated records and the risk of not finding suitable investments. The local authorities in this State adopted both the sinking fund system and the annuity system.

One of the striking features of the local authorities loan administration is that it was not dynamic.[1]

[1] The first local authority to take a loan from Government was the Gauhati municipal board. In 1888, it was granted a loan of Rs. 88,000 for the construction of water works. In 1884-85, Government sanctioned Rs. 2000 to the Shillong Municipal Board as loan for the extension of water supply for the non-European part of the town. In

Prior to 1915, several municipal boards did not wish to contract loans. As a matter of fact the general tendency on the part of municipal boards was to meet capital expenditure out of their current revenues. That is, municipal boards adopted the pay-as-you-go policy. Two arguments have been advanced in favour of this policy. Payment by loans means that in the aggregate very large sums are paid by the rate-payers over and above the actual cost of work. Thus if Rs. one lakh is borrowed for the construction of a work redeemable in thirty years at five percent interest the aggregate amount required for the redemption of the loan is Rs. 1,95,150, nearly twice the amount of the original loan. So the old economists held the view that less money should be taken from the pockets of the taxpayers so that the community may be benefitted ultimately. They were of the view that if more money was left at the disposal of the individual the more fruitful would be the result. This view was unsound and impracticable. Many of the public improvements would not have been undertaken except by loans. For instance, the Gauhati water supply scheme. The cost of the scheme is Rs. 11.15 million. If a loan had not been taken for the construction of the scheme, the people of Gauhati town would have perished like autumn leaves.

A more powerful argument in favour of the pay-as-you-go policy is that of human nature. It is said that when money is

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1892-93, anothesr sum of Rs. 2500 was sanctioned to the same board for the same purpose. By 1892, Government granted a loan of Rs. 79,011 to the Gauhati Municipal Board. The board defaulted in the payment of instalments stipulated by Government. Government was, therefore, compelled to withhold the payment of grant to that board. In 1901, it was the only board which had an outstanding loan of Rs. 12,883 In 1904-04, Rs. 10,000 was given as loan of the Sylhet Municipal Board for the improvement of water supply. A Similar amount was given to the Dibrugarh muniiipal board in 1907-08 for the construction of a market. In 1907, only four municipal boards had outstanding loans taken from Government, Sylhet, Shillong, Gauhati and Dibrugarh. The total amount of loan due was Rs. 56,000 . Since then of course three has been rapid increase in the amounts taken as loan. It was as follows.

1916-17	...	...	Rs. 1,89,162
1929-30	...	...	Rs. 2,88,334
1950-51	...	...	Rs. 14,17,195

expended out of revenues, it is likely to be more carefully spent. Practical experience shows that Rs. 20 paid out of a loan will yield only Rs. 18. If it is spent from revenues it stretches to Rs. 21. The validity of this argument has been questioned by some.

It is, possible to finance some capital works out of current revenues. For instance, the resurfacing of roads once in five years. With foresight and organization it ought to be practicable to distribute this work so that the expenditure may be met out of the current revenues. This is being done by some local authorities. It is prudent to adopt the same practice more widely than at present to other classes of works. The local authorities may refrain from the practice of meeting small capital expenditures from loans. A number of local authorities in the past adopted this policy of paying capital expenditures out of revenues. However, circumstances, largely determine the practice. But ordinarily capital expenditure ought to be met out of loans and the ordinary expenditures out of current revenues. It is admitted that loans are raised sometimes to meet ordinary expenditures. But the adoption of such a policy, as a normal one, is not sound. Sooner or later the payment of instalments to the sinking fund will fall in arrears and the administration will begin to realise the unsoundness of financial transactions. Further, a substantial portion of the money raised by taxation may have to be spent to meet debt obligations with the result that essential needs will be starved. Therefore, borrowing for ordinary purposes is prohibited under all circumstances. In times of emergency such as wars and floods, borrowing for ordinary purposes may have to be resorted to.

The reasons for borrowing for capital purposes are obvious. It avoids the raising of taxation to impossible heights. It compels those who are benefitted by the capital works to contribute their share towards such expenditure. However, before borrowing a question should be raised and answered whether the expenditure should be financed entirely by taxes or partly by taxation and partly by loans or entirely by loans.

CHAPTER XVIII

LOCAL EXPENDITURES

Expenditures are of two kinds, obligatory and optional. This distinction was not made by the Local Boards Act, 1915. It simply fixed up the priorities so far as expenditures were concerned. But the Municipal Act, 1956, is based on two principles in respect of expenditures. First, the objects of expenditures are specified. Second, the local authorities are permitted to incur any expenditure to carry out the purposes of the Act subject to certain limitations.

The Municipal Act, 1850, did not specify the objects of expenditure. It simply said, "The Commissioners shall have full powers to apply the taxes raised, in the necessary works and in the payment of their officers and servants and in the expenses incidental to the execution of the Act, within the said town or suburb". But the Municipal Act, 1864, specifically laid down that the first obligatory expenditure should be police and the repair and maintenance of roads, streets, drains and tanks Further, the municipal boards "shall do all things necessary for the purpose of conservancy in the place". In other words, the municipal boards were concerned only with three functions, police, roads and conservancy and no more. The Municipal Act, 1876, added some more objects of expenditure. The obligatory expenditures were in addition to those already mentioned above, the payment of interest on the loans contracted, payment of salaries to their own establishment and the establishment in the office of the magistrate and of the Commissioner. The optional expenditures were the construction and improvement of roads, bridges, embankments, squares, gardens, tanks, ghats warves, jetties, the supply of water lighting, watering of roads, the establishment and maintenance of hospitals and dispensaries and vaccination. Under the Act, 1884, they were not required to set apart any amount for expenditure on police but had to set apart a certain amount for conducting audit. Under the Municipal Act, 1923 and 1956, the obligatory expenditures consisted of payment of interest on loans, payment of salaries

to Government servants whose services were lent to the municipal boards and payment of expenses of pauper lunatics. The Act of 1956 added one more, expenditure on the maintenance of endowments transferred to the control of the municipal board.

As far as local boards were concerned their main concern was the maintenance of communications. Under the Local Rates Regulations they were concerned with elementary education and conservancy. So the objects of expenditure were three. The local boards Act, 1915 and 1953 added some more but they did not make a distinction between obligatory and optional expenditures. They simply fixed up priorities so far as expenditures were concerned. The total expenditures were as follows :

Year		Municipal Boards Rs.	Local Boards Rs.
1885-86	...	1,10,525	9,79,744
1900-01	...	2,49,549	12,23,329
1919-20	...	6,64,582	22,21,368
1950-51	..	27,76,699	51,77,439

From the above it is clear that there has been an enormous increase in expenditures. The reasons are obvious. First, there was an increase in the number of functions entrusted to the local authorities. Second, there was an increase in the number of local authorities. Third, there was increase in area and population. Fourth, there was an increase in the income of the local authorities, particularly in grants-in-aid. Fifth, certain expenditures which were borne at first by the Provincial Government were transferred to the local authorities. Sixth, authorities showed some amount of anxiety to provide services which were necessary to make life tolerably comfortable. Above all, there was an increase in the pay bills of the establishment.

Now, let us consider the expenditure on particular services.

Communications : One noticeable feature was that expenditure on communications was excessive in the local boards till the beginning of the present century. In a province where roads and communications are of extreme importance and where the influential section of the people were interested in communi-

cations, this expenditure could not but be excessive. As a consequence other services were neglected. The Chief Commissioner remarked that attention ought to have been paid to the promotion of education and medical relief. There was some amount of discontent in this respect. Even in regard to communications attention was not paid to communications in which people were interested but only to communications in which planters were interested. Further, village roads were neglected for a long time. When this was pointed out vested interests argued that with the development of communications all other services would automatically develop. In 1884-85, the expenditure on public work was 84.65 percent of the total expenditure. It was 58.18 percent in 1895-96 and 27.63 percent in 1951. If we take the individual local boards it was always higher in some than the provincial average.

As regards the municipal boards, the expenditure on roads and streets varied from place to place. During the period under review the average expenditure on roads to total receipts was not less than 15 percent of the total expenditure. There was an enormous increase in expenditure on communications during the period 1884 to 1950. It was Rs. 23,341 in 1885 and Rs. 4,15,550 in 1931. Some of the municipal boards were spend ing more than 20 percent of their receipts on roads.

Education : The expenditure on education was at first negligible. This attracted the attention of the Chief Commissioner. In 1882, Elliot expressed the hope that the local boards which allotted less than 20 percent of their purely local funds to education would increase it. In 1884, the Indian Education Commission thought that a certain percentage of the income ought to be assigned to education but the percentage should vary from one municipal board to another. With regard to local boards, they did not advocate any such variation but desired that a fixed arithmetical proportion of the income should be prescribed which should be the same for all local boards in the province. Government did not accept the recommendation because of the difficulty in choosing the ratio. It adhered to the earlier view that every local board should devote at least 20 percent of the purely local funds for the promotion of education. In practice, however, several local boards did not allot that amount though some of them like Barpeta and Hailakandi spent more than the

percentage prescribed. Further, a larger proportion of the amount allotted for education was devoted for secondary education although local boards were not to concern themselves with high school education. However, the expenditure by the local boards gradually increased from 1884-85 onwards. It was 11.68 percent in 1885 and 29.35 percent in 1950-51. But some of them were spending more than the provincial average.

The educational expenditure of the municipal boards in increased from Rs. 4,222 in 1885 to Rs. 1,86,704 in 1950 and some of them were spending more and some less than the provincial average. When the municipal boards were relieved of police charge, they were told that the amount hitherto spent on police ought be allotted to education. But this was not done. Further, the municipal boards were not under an obligation to spend certain percentage of their income on education. As a consequence, the percentage of expenditure varied from one boad to another.

Conservancy, Water Supply & Lighting : The expenditure on all these services also increased enormously but the percentage of expenditure to total receipts on each of the services varied from place to place and from year to year. In places like Dibrugarh, Nowgong and Goalpara the expenditure on conservancy was always great.

Control of Expenditure : The local authorities have had no subject to several limitations which were contained in the local Acts and in the rules framed thereunder. The Municipal Act, 1876, laid down that not more than Rs. 200 ought to be spent on public utility works per 1000 population. No contribution to other local authorities ought to be made unless such contribution would benefit the inhabitants of the contributing municipality. Special funds ought not to be diverted for any purpose other than those for which they were intended. Government may at present direct a gaon panchayat to spend a specified share of the net receipts of the local rate for any purpose specified by it.

Inspite of all these controls there was no honesty in the expenditure of public funds. The heads of the institutions set a bad example in this matter. For instance, the chairmen of the local boards made unnecessary inspections involving wasteful expenditure. Again, in the distribution of government grants for the improvement of water supply or sanitation, the boards

did not scrutinise the plans of the village authorities. The progress of expenditure under various heads was not watched as it ought to have been. It was the duty of the officer before he ordered the expenditure on any object, to see whether there was budget provision to cover the payment. If enough money was not available or if there was no budget provision he should insist on reappropriation of funds before authorising expenditure. This salutary principle was not observed on several occasions. Fresh recurring expenditures could be undertaken if increased receipts of a recurring nature were expected. But most of the receipts of the local boards were more or less stationary. Therefore, the greatest caution ought to have been observed in incurring fresh expenditures. New schemes of expenditure ought to have been examined closely with special reference to the recurring charges which they would entail. Failure to exercise this check seriously affected the financial position of the local authorities.

Other unsatisfactory features of local expenditures were payment without obtaining a proper receipt as a proof of payment, withdrawal of money in advance of requirements execution of works without calling tenders, rejection of lowest tender on flimsy grounds and acceptance of tenders at the estimated rates. In other words, healthy competition between the contractors by inviting them to quote their own rates and the opportunity for the execution of works economically was not availed of. Again, payments were made before the completion of works and sometimes without check measurement.

CHAPTER XIX

LOCAL AUDIT

Audit may be of two kinds, pre-audit and post audit. Pre-audit is conducted before payments are made and post audit after payment is made. The aim of post audit is to ascertain whether the transaction is regular. But post audit is just like locking the door after theft has been committed. It may be either a detailed or a test audit. A test audit is one which scrutinises a part rather than the entire financial transaction. It is satisfied if the portion selected for examination reveals no irrgularities. The basis of test audit is confidence in the administration.

Of the two kinds of audit, pre-audit is more effective. Where pre-audit exists expenditures will be according to rules. But pre-audit is cumber-some and costly and therefore it was not adopted in this State. The system of audit that existed was post audit. The distinguishing feature of local audit in this State was that no provision was made for supplementary audit. In England, the Ministry of Health could order a district auditor to conduct a supplementary audit of the accounts of the local authority.

Historical Background : For the first time in the history of local finance, the audit of local accounts was suggested by the Government of India in 1863. Accordingly, the Bengal Government directed the Commissioner of Assam to audit in detail local expenditure. It was the duty of the Commissioner to see that the expenditure was not in excess of the sanctioned amounts ; that funds had not been misapplied ; that expenditure on public works was supported by certificates signed by the officer executively responsible, showing the payment made from time to time. The audit of local accounts could be conducted either by the Commissioner himself or by one of his subordinate officers. Or Government could avail of the services of the Deputy Auditor and Accountant General. That is, local fund accounts could be reviewed by him so far as might be necessary to see that the authorised budget appropriations were not exceeded, that balances were duly brought forward and that

the local audit has been properly conducted. The Government of India also directed the Deputy Auditor and Accountant General, Assam to help the Commissioner in other ways also.

The main object which the Government of India had when it directed the provincial governments to undertake the audit of local accounts was to see that local funds were not utilised by certain sections of the community for their own benefit. The Government of India also thought that without central audit local self-government would not flourish—a contention with which the present writer is unable to agree. In England, there was no central audit of local accounts for a long time and yet local government flourished there.

Under the Local Rates Regulations, 1879, local boards had to transmit monthly all vouchers to the Deputy Accountant General who audited them and furnished a balanced classified account to the district committee. This account was examined and compared with the accounts maintained by the District Accountant General who furnished quarterly reports for publication in the gazette and monthly reports to the Public Works Secretariat.

The Municipal Acts, 1876, and 1884 laid down that municipal accounts ought to be audited in such a manner as the provincial government might direct. But in practice, there was dual audit. Municipal accounts like the accounts of the district committees were audited by the Deputy Examiner of Public Works Accounts, Assam. That is, the municipal boards submitted their other accounts to the Controller and the Public Works Accounts to the Executive Engineer who submitted them to the Examiner of Public Works Accounts for audit. All communications between the Examiner and the Board passed through the Executive Engineer. Since, there was no direct contact between the Examiner and the board, there was considerable delay and laxity in the disposal of objections. Again, the system of audit was not economical. The Chief Commissiner, therefore, suggested that dual audit ought to be replaced by a centralised audit. That is, there would be an Examiner of Local Fund Accounts who would work under the Controller. It would be his duty to audit all local fund accounts. The local and municipal boards should submit their accounts direct to the Controller for compilation while the Examiner and his

Assistants wonld audit on the spot the accounts of the boards. The Chief Commissioner thought that this kind of audit would result in the quick disposal of audit objections. The Government of India did not accept the proposal. So prior to 1905, the system of audit that existed was as follows : There was a monthly audit of accounts maintained in the office of the Executive Engineer. Then there was a detailed audit annually of one month's accounts on the spot and a general inspection of accounts from the date of previous inspection. Further, the Divisional Officer not only checked each entry in the cash book with the corresponding voucher but was also responsible to see that each voucher was properly passed. In 1907, Government decided to introduce the local audit that existed in East Bengal into Assam. This system provided for the audit of local and municipal accounts locally by the Examineer of Local Fund Accounts.[1]

The rules laid down that receipts and expenditures of the local authorities should be examined and audited by the Examiner at least once in twelve months. While auditing the accounts, the Examiner had to see that they were maintained in proper form ; that receipts and expenditures were recorded in sufficient detail ; that payments were supported by adequate vouchers and authority ; that all amounts received and amounts which ought to have been received were included ; and that expenditures were justifiable. The Examiner was authorised to disallow such payments which were exorbitant and surcharge the persons who were responsible for loss or misuse of monies.

The Examiner had to submit a report of audit of the local accounts to the Accountant General who forwarded it to the Chairman of the local authority, tae Commissioner and the Deputy Commissioner. The chairman was required to remedy the defects within three months from the date of receipt of the report and communicate the action taken to the Commissioner. The Commissioner should forward the report together with his remarks to the Accountant General. Where the Sub-Divisional Officer was the chairman of the local board, he should submit the report to the Deputy Commissioner who forwarded it to the

[1] Letter No. 2880 M. 8-4-1908. The first person to hold the office of Examiner was O. J. Sykes and he was succeeded by C. A. G. Rivaz.

Accountant General through the Commissioner. The fundamental defect in the local audit system was that no provision was made to surcharge the person who was responsible for the misuse of money or loss due to negligence. As long as the Deputy Commissioner was the chairman of the local authority the need for this provision might not have been felt. When non-officials were appointed as chairmen, it was not realised that audit control must be effective. It is true that in 1924, the Examiner was authorised to surcharge persons who were responsible for loss or misuse of monies of the local board. But the Examiner had no adequate means to enforce his orders except by a lengthy and expensive process of a civil suit. Therefore, in 1929, a bill authorising the auditor to surcharge defaulters was introduced into the Legislative Council. But it was opposed on the ground that it would stifle local autonomy. Local autonomy does not mean liberty to play with public funds. The arguments that local bodies should be liable to audit only so far as they might choose to make themselves liable and that the auditor should have only such powers which the local authorities might choose to give were absolutely untenable.[2]

Again the argument that the auditing of local accounts should be confined to such portions of the accounts to which the local authority might agree clearly reveals the fears of those whose misdeeds were likely to be detected by the auditor. A local authority which incurs expenditures according to rules

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[2] A.L.C.P. Vol. 9, p. 570. Speech of A. W. Botham.

Ibid. p. 572. Speech of Brajendra Narayan Choudhury.

Ibid. Vol. 10, p. 291-3. Speech of Gopika Mohan Roy. "I am opposed even to the limited power which it is proposed to confer on the auditor. There would be serious frequent friction between the boards and the auditor; there is too much insistance on petty and trivial details. Some auditors appear to think that it is their first duty to pickholes and detect the most minute irregularities. Past experience clearly shows that the bill would provide overzealous auditors and examiners with ample opportunities to harass even an honest accounting officer and thus hamper the smooth working of the local boards." .....

Ibid. Speech of E. S. Roffey. "As a safeguard against the abuse of power by the auditor, every certificate of surcharge issued by the Auditor must be confirmed by the Commissioner." Roffey also suggested that provision should be made for an appeal against the surcharge certificate to the District Judge."

need not be afraid of audit. As a matter of fact audit is the surest method by which public confidence in administration can be maintained. Further, local authorities receive huge amounts as grants-in-aid and loans. Government has every right to ascertain that its funds are spent on purposes for which they are allotted. One of the means by which they could get this information is by audit.

Finally, the argument that there might be conflict between the auditor and the board was equally untenable. After all, auditors are human beings endowed with the faculty of reason. Given understanding there should be no conflict between the chairman and the auditor. It is admitted that some of the auditors considered themselves as agents of the State Government sent to correct the erring local authorities. Some of them concerned themselves more with minor irregularities than with major defects. Sometimes they harassed the local authorities unnecessarily. But they were in a minority. In such cases, Government itself interfered and put an end to it. But the fact ought to be recognised that there was misapplication and misappropriation of funds. For instance it is a matter of common knowledge that the chairmen of local authorities undertook tours which served no purpose. On several occasions the auditor gently drew the attention of the chairmen to the wasteful expenditure of public monies involved in such tours. It was only when the chairmen did not listen to the voice of reason, they were threatened with surcharge proceedings.

Further, any person who was aggrieved by a surcharge certificate had a right of appeal to the Commissioner. If he was not satisfied with the decision of the Commissioner he could prefer another appeal to the State Government provided the amount involved was Rs. 300 and above and provided a question of law was involved.

The persons that may be surcharged were those who were entrusted with statutory functions. They were the chairmen and members of the local authority concerned. But the members who did not attend the meetings of the local authority when the subject of surcharge was disposed of and those who voted against it were not surcharged. Surcharge certificates were not issued to the legal heirs of the deceased persons. But if a surcharge certificate had been served on the person concerned be-

fore his death it was enforced against his heirs to the extent of assets available in their hands.

The basis of surcharge was negligence or misconduct. Before issuing a surcharge certificate it ought to be conclusively proved that there has been gross carelessness or wilful defiance of the rules of sucharges. Mere imprudence was not enough. Mere want of judgement was not enough. It must be **crassa negligentia.** Apart from negligence the principles of enquity must be observed. The burden should be shared by every one concerned. However, the incurring of expenditure without the sanction of the competent authority should not be the basis of surcharge. It does not matter whether the sanction was obtained before or after the expenditure was incurred. All that is required is the sanction of the competent authority.

From the above it is clear that the auditor was endowed with immense powers, to determine not only what was legal but also lawful. It has been argued that such wide powers ought not to be entrusted to the auditor whose experience is limited and outlook narrow. Apart from this fact, the auditor is likely to abuse his wide powers. All these arguments are theoretically correct. There is however no conclusive evidence to show that this had happened. Of course the relations between the auditor and the local authorities were not as cordial as they ought to have been. It is not possible to apportion blame for this state of affairs. Both the parties appear to be responsible for it. Some of the auditors adopted a harassing attitude. Instead of examining the accounts they assumed the role of a judge and began to criticise local administration. The local authorities on their part regarded audit as an evil, a restraint on their freedom of action and a limitation on local autonomy. This mental attitude induced them to non-co-operate with the auditor. They did not realise that local audit is an effective instrument by which confidence of the people in local administration could be maintained.

CHAPTER XX

BUDGET

Public authorities, the pioneers in budgeting, traditionally regarded budget as a plan of expenditure. Industry has developed budgeting as a tool of management. The main function and the main feature of a local budget is that it fixes the rate of local taxation and the purpose to which the proceeds of taxation shall be applied. It enables the comparison of the intangible benefits of one service with those of another. It is the means by which policy is implemented. It focusses the attention of the citizen on the various activities of the authority concerned. It helps the authority to take a forward look. It enables it to review its policies. It provides a means of avoiding lopsided development of the services. It is the medium for ensuring that the monies of the local authorities are spent according to their wishes. It enables the budgeting authority to introduce during the financial year, modifications dictated by unforeseen circumstances. It provides a suitable yard stick to help to secure efficient economic administration. Although the budget has all these virtues, it is idle to expect an ideal budget based on scientific measurement of all the relevant factors. Current national policy, the pressure of public opinion, the predilictions of local politicians and indirectly of officers all play their part in the process of making the budget.

Historical Backgrounds : For the first time in the history of local finance, provincial governments were directed by the Government of India to prepare a budget local funds in October 1861. The provincial government directed the District Collectors to prepare a budget in consultation with the P. W. D. not with a view to exercise any control over expenditures from local funds but merely to keep itself informed of the outlay for financial purposes and of the nature of the projects with reference to their effect upon the wants of the country which remain to be met from the Imperial funds. The following general rules were laid down for the preparation of the budget.

1. An annual estimate of the expected receipts and pro-

posed expenditures of local funds should be prepared by the officer charged with their administration in the districts.

2. The annual local fund budget should be prepared in accordance with the rules then in force for the preparation of the budget estimates of public income and expenditure of the province.

3. The estimate should include every fund consisting of local cesses.

4. The annual account of the expenditure of the local fund should be submitted by the local government to the government of India.

While laying down these rules, the Government of India observed that local funds were trust funds applicable for the benefit of the local communities. If these funds were diverted to the special advantage of the favoured sections of these communities or misused to promote the interests of certain groups of individuals, it would annihilate the principles of local govern ment. Such misuse ought to be prevented by careful revision of the annual budget estimates.

Inspite of these instructions, the local fund budgets were prepared in a haphazard manner. Estimates of works for execution were not prepared. Budget allotments were increased without proper sanction. The preparation and the execution of the budgets passed into the hands of the P.W.D. The Executive Engineer spent the amounts provided in the budget without the permission of the Deputy Commissioner who was the head of the district. The original plan that the budget should be prepared and executed by the district officer was not adhered to.

The authority to prepare the budget was the chairman of the local authority. This arrangement is the best because situated in the centre of government, reacting through its hierarchical organization to the smallest unit, the chairman, more than any body else is in a position to feel the public needs and wishes, to appreciate their comparative merits and accordingly make a just appropriation for each service. Others may know certain details as well or possibly better than the chairman but no body can have so extensive and impartial a view of the mass of details and no one can compromise conflicting interests with so much competence and precision. Moreover, the chairman charged with the execution of the budget is compelled to prepare the plan

as well as possible. But it is fundamental that the chairman must be a man of sincerity and wisdom. Wisdom enables him to see the future clearly. Sincerity compells him to state the truth when he had ascertained it. There is no use of his being sincere if he is not wise and wisdom is of no value if he is not sincere. These two qualities go hand inhand. It is doubtful whether these qualities were possessed by most chairmen.

Budget Form : A form for the preparation of the municipal budget was devised in 1864. It underwent several charges so far as heads of income and expenditure are concerned. But the information to be furnished under each was, however, the same. For each head, the actuals for the previous financial year, actuals for the first six months of the current year and estimates for the next financial year had to be furnished.

So far as the local boards were concerned there was no budget form prior to 1879. The form devised in that year contained a few heads. For instance, on the receipts side the abstract contained only four major heads, local rates, education, miscellaneous and other public works. This form was in use till 1959 although it underwent several changes. In 1959, a new form was devised, one for the anchalik panchayats and another for the sub-divisional rural fund.

The information to be furnished against each head also varied from time to time. Prior to 1915, the actuals for the previous financial year, the sanctioned estimate for the current year, the actuals for the first six months of the current year and the estimate for the next year had to be furnished. In 1915, it was laid down that the actuals for the previous three years ought to be given. But at present, the sanctioned estimate of the previous year, the actuals of the previous year, the sanctioned estimate of the current year, the estimated actuals of the current year and the budget estimate of the ensuing year have to be given. The present budget form is therefore comprehensive, giving a complete picture of the financial position of the local authority.

However, it must be said that the budget form is defective. For instance, no clear distinction is made between capital and ordinary expenditures. While it is difficult to draw a line between capital and ordinary expenditure in some cases, such cases are

few. The failure to make such a distinction results in the sale and utilization of capital assets for ordinary purposes.

Preparation of the Budget: Sometime in the month of October, the chairman sends a circular letter to the heads of the departments requesting them to state their needs. In the preparation of the budget estimates, the first duty of the chairman is to revise the estimates of the current year in the light of experience gained during the previous six months. It must, however, be noted that the revised estimate does not provide watever for any expenditure. It does not carry any authority whatever. It does not authorise the expenditures of the charges already incurred. It does not supersede the budget estimates. It is not the legal means for the application of additional grants to cover expenditure which was not provided for in the budget estimate. It is an estimate pure and simple prepared with a view to inform the local authority and the State Government how the amounts already sanctioned will be spent. It ought not to be cited as an authority to incur additional expenditure in excess of the amounts already sanctioned. If the revised estimate discloses the fact that additional sums will be necessary, the chairman ought to apply for them separately and in complete form.

The revised estimate is prepared by adding to the actuals of the first six months of the current year those of the closing six months of the previous year or by assuming that the expenditure in the remaining six months of the current year will be in the same proportion as that of the earlier six months. While preparing the revised estimate, the chairman must use his discretion as to which of the two methods he should follow. Again, he should pay due regard to the experience of the previous years in revising the estimates. That is, while estimating for the residual period on the basis of the actuals of the corresponding months of the previous years due allowance ought to be made for the special and unnsual characteristics of the year for which the revised estimate is being prepared. If the figures of the residual period differ radically from the corresponding figures of the last preceding year the reasons for the same ought to be stated. On the other hand if the figures of the current year already recorded differ materially from the corresponding figures of the previous year and of the earlier years and yet the revised estimate showed no corresponding difference for the residual

months, the chairman ought to state the reason for thinking that the difference experienced in the earlier months will not continue.

After the preparation of the revised estimate, the preparation of the budget estimate must be taken up. While preparing an estimate of receipts and expenditures, there should be no hasty computation, unsupported by detail. Again, the draft budget must be free from over optimistic estimate. There should be no understatement of income or over statement of expenditure. Again, the budget should not be made the vehicle for the deter mination of a new policy such as the institution of new services, the expansion of the existing ones or the adoption of capital projects. All policy decisions ought to be made before hand even though they cannot operate until budgetary provision has been made. The budget should not be framed by simply collating the draft budgets of the several departments. The departments may ask for more allotments. So pruning of the departmental budget is necessary.

While preparing the budget, the chairman ought to observe certain limitations. *First*, provision should be made for an adequate closing balance. *Second*, adequate provision should be made towards debt charges. *Third*, no credit should be taken in the budget for any contribution either from Government or from an individual unless it was sanctioned or promised. *Fourth*, no provision ougt to be made in the budget estimate for capital expenditure or for new schemes of expenditure without adequate resources. Even when funds were available only those schemes which had been sanctioned by competant authority ought to be included in the budget estimate. *Fifth*, adequate provision ought to be made for all obligatory expenditure. *Sixth*, provision should not be made in the budget for purposes for which previous sanction is necessary. *Seventh*, expenditure on establishment that had not been sanctioned by competent authority should not be included. *Eighth*, certain amounts ought to be allotted for particular services.[1]

[1] Prior to 1883, local authorities and complete freedom to devote as much as they pleased for education. The result was that some of the local boards devoted less than twenty percent of their receipts for education. So in 1883, Elliot suggested to raise the allotment to 20 percent of their receipts. But the local boards disregarded the suggestion. So in 1893, Government returned the budgets of those

Finally while preparing their budgets the local authorities must consult some of the departmental heads of the Provincial Government.

Along with the budget a budget note and a number of documents had to be prepared. The budget note explained in non-technical terms the financial plan. Tables and figures, no matter, however, skilfully arranged cannot explain to the man the financial condition of the local authority as effectively as the budget note does. Inspite of its importance several chairmen never prepared a budget note.

Copies of the budget were circulated among the members of the board so that they might have an opportunity to study it. Statutory rules prescribed the date by which the boards should adopt the budget. A local authority that defaulted in the discharge of this duty could be dissolved or superseded. Before the adoption of the budget the local authority had to assure itself that the budget particularly the receipt side were exhaustive and cautious ; that rules relating to its preparation were observed. It may, however, be noted that there was no intelligent discussion of the budget estimate. As a matter of fact the entire budget was disposed of within a period of four hours.

Scrutiny and sanction of the estimates : The Municipal Act, 1850 and 1864, did not provide for the scrutiny of the budget estimates. The Municipal Act, 1876, laid down that copies of the budget should be available to the public for inspection. Any tax payer could raise any objection and make any suggestion which ought to receive the consideration of the board. The final estimates were to be transmitted to the magistrate who forwarded them to the Commissioner together with his remarks. The commissioner either sanctioned the estimate or submitted it to the Chief Commissioner for his consideration. The Chief Commis-

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boards which allotted less than ten percent of their income for education to revise their budgets estimates. Since, 1892-93,, 20 percent of their receipts excluding Government grants was allotted for education Similarly, Government ordered that 5 percent of their estimated receipts ought to be spent on sanitation. But no local board was required to provide more than Rs. 2,000 for this purpose. Any local board could provide a sum larger than this amount.

The aggregate salaries and allowances in any financial year of the P. W. establishment of the local boards ought not to exceed 20 per cent of the total allotment.

sioner could either alter the budget or return it to the Municipal Board for modification.

The Municipal Act, 1884, prescribed a slightly different procedure for the scrutiny and sanction of the budget. After the receipt of the budget from the municipal board, the Deputy Commissioner adopted one of the two courses of action, either submitted the budget estimate to the Commissioner or returned it to the board with his suggestions for its modification. If the board agreed with the suggestions made by the Deputy Commissioner well and good. Otherwise, they had to give their reasons for disagreeing with him and return the budget to the Deputy Commissioner for transmission to the Commissioner, who either sanctioned the budget or returned it to the Board for necessary modification. If the board did not agree with the Commissioner, the latter could on his account make the necessary modifications and direct the board to carry them out. A similar procedure was adopted under the Act of 1923 and of 1956.

As regards local boards, under the Local Rates Regulations, 1879, the district committee had to prepare the budget. The first part of the budget had to be submitted to the civil secretariat before October 15 of the preceding financial year in which it was to take effect. The budget had to show the receipts and expenditures under each of the main heads in gross sums together with details for general improvement and education but not for roads. After the receipt of the approval of Government, the district committee had to prepare a detailed estimate for roads and submit it to the P. W. Secretariat. The Chief Commissioner could return the budget to the district committee at any time for revision or amendment and could refuse to sanction the whole or any part of the budget estimate. The budget had to be prepared in consultation with the competent authority such as the Inspector of Schools.

In 1899, a slighty different procedure was prescribed for the scrutiny and sanction of the local boards budget. The local board had to submit the budget to the Deputy Commissioner for his approval. The latter could suggest modifications and the former was at liberty to accept or reject them. In case the board did not accept the suggestions reasons had to be given. The Chief Commissioner could either approve the budget as submitted by the board or modify it.

In 1915, an elaborate procedure was prescribed for the scrutiny and sanction of the budget. The budget had to be submitted to the Deputy Commissioner who could return it to the board suggesting modifications, or forward it to the Commissioner. In case the budget was returned to the board it had to meet in a special meeting for the consideration of the objections raised by the Deputy Commissioner. The Commissioner was the final authority to sanction the budget. In 1953, this power was vested in Government. But the board was not required to wait till the budget was sanctioned by it, if such sanction was not given before the end of the financial year. This procedure was in force till the end of 1959 when the local boards were abolished.

Under the Panchayat Act, 1959, the anchalik panchayat must submit its budget to the mohkuma parishad for its approval. The parishad must approve or disapprove the budget within a period of one month. If the budget is not approved within the prescribed period it is taken as approved. In case of a dispute between the parishad and an anchalik panchayat, the matter is referred to Government whose decision is final. Before according its sanction, he mohkuma parishad must ensure that the provision has been made for the payment of all loans due and that the provisions of the Act and rules made thereunder have been observed in the preparation of the budget.

As regards panchayats, under the Panchayat Act, 1870, the Deputy Cmomissioner had to prepare and submit the budget of the panchayats within his jurisdiction to the Commissioner. Under the Local Boards Act, 1915, the village authority had to submit an estimate of its receipts and expenditures in the succeeding financial year together with an estimated cost of any work which the village authority proposed to carry out during the year to the local board within whose jurisdiction it existed for its approval. The local board had the power to revise the estimate. The estimate approved by the board had to be incorporated in its own budget and submited to the Deputy Commissioner who transmitted it to the Commissioner. The sanction of the board was communicated to the village authority after the receipt of the sanction from the Commissioner. Under the Panchayat Act, 1926, the village authority had to submit the annual estimates to the Registrar of Panchayats whose deci-

sion was final. Under the Panchayat Act, 1948, the budget had to be submitted to the Deputy Commissioner those decision was final, Under the Panchayat Act, 1959, the budget must be submitted to the anchalik panchayat for its sanction. The anchalik panchayat ought to approve or disapprove the budget within one month from the date of its receipt. If the approval is not given within the prescribed period it is taken as approved.

Supplementary estimates : The budget of the local authority is prepared in considerable detail for stable local services. Therefore there should be no difficulty in construction a workable budget which does not require revision. Still certain unforeseen things may happen and new expenditures may be imposed on the local authorities. Further, there may be miscalculations which are inevitable when estimates are prepared sixteen months in advance. So there may be a necessity for deviation sfrom the original budget. For this reason, provision is made for the preparation of supplementary estimates, which are subject to the same procedure as the budget estimates.

Transfer of allotments : Transfer of amounts from one head to another to meet excess expenditure in the latter is possible. The meticulous calculations of the original figures leaves only a limited scope for such transfers but there will always be some opportunity for it and therefore provision has been made for the transfer of allotments from one head to another. This power is subject to certain conditions. For instance, under the Local Board Act, 1915, a local board could transfer allotments from one major head to another provided the amount transferred did not exceed Rs. 100. When the amount transferred exceeded Rs. 100, the sanction of the Commissioner was necessary. It was further laid down that applications for the transfer of allotments from village sanitation to another head would not be entertained except under very exceptional circumstances. Again, the previous sanction of the Commissioner had to be obtained to any proposal to draw upon the balances of the board for the purposes of meeting excess expenditure.

It may, however, be noted that the appropriations made in the budget do not authorise the executive authority to make payments without the specific sanction of the local authority. The local authority has the undoubted right to refuse its sanction for certain expenditures even though there may be budget

provision for the same. Further, the entire amount provided in the budget need not ,be spent but only so much of it as the local authority may sanction. Above all the amount provided in the budget against any head is the maximum amount sanctioned for expenditure on the service concerned. The expenditure on the service ought not to exceed the amount provided in the budget. All expenditures had to be regulated according to the provision made in the budget. To ensure the implementation of the budget, an account form has been devised.

Good Features : The budget of the local authorities in this State has many good features. *First,* the appropriations are annual. That is, allotments made in the budget lapsed at the end of the year and no part of any allotment remaining unexpended could be reserved or appropriated by transfer to deposits or any other head to avoid lapse. Annual appropriations are considered to be most satisfactory. In recent times a suggestion has been made for budgeting for capital works. That is, a definite sum may be allotted for a definite purpose of capital nature for expenditure during an indefinite period. But local authorities are opposed to capital budget because it will not provide opportunities to scrutinise the projects. It will encourage callousness on the part of the spending authorities. It will seriously impair the control of the local authority over expenditures. Finally, annual appropriations do not prevent long range planning.

Second, the local budget is a cash budget. It is an estimate of cash receipts and cash payments during the coming year irrespective of the fact that such payments and receipts relate to the transaction of that year or of the previous year.

Third, the budget is prepared on the gross and not on the net basis, receipts are entered on one side and the expenditures on the other.

Fourth, there is itemization of expenditures. In 1879, there was very little itemization. Later on, itemization became the main characteristic of the local budgets. It was resorted to because lump sum allotments resulted in wasteful expenditures. However, it is argued that itemization of appropriations while it prevents malpractices, is not likely to promote efficient administration. On the otherhand it may encourage the administration both bad and good, to seek for more budget allotments than

necessary so that they might have enough money under each head. If the demands are granted, they will see that the entire amount is spent within a year. Again, itemization enables the local authority concerned to interfere in the details of financial administration. Theoretically, these arguments are sound. But we have to consider two points, whether itemization prevents the administration from using its discretion ? Does it really encourage wasteful expenditure ? The answer to these questions is in the negative. On the otherhand, it is the lumpsum provision that results in extravagance and wasteful expenditure.

Conclusion : Although local budgets have several excellent features, they are not free from defects. They are no doubt coherent and integrated. But the information furnished in the budget is inadequate.

Second, sufficient care is not bestowed in the preparation of the budget estimate. Therefore, the budget is often not a balanced one. Further, the estimate of receipts is made on very optimistic assumptions. On the basis of these estimates expenditures are planned. But while executing the budget emphasis is laid on the expenditure and not on the receipt side.

Third, there is no strict adherence to the budget. New works are undertaken for execution although there is no budget provision. These works are financed by encroaching upon the opening balances.

Fourth, frequent resort is made to the vicious device of reappropriation or supplementary grants. It is admitted that reappropriations are necessary in financial administration but it should have been availed of only when there was absolute necessity.

Fifth, there is no adequate machinery for the scrutiny of the budget. It is true that in some local authorities there are committees for the scrutiny of the budget estimate but in most places they do not exist. It is not realised that the local authority is too unwieldy a body for this purpose. The absence of the estimates committee produced one disastrous consequence, viz., the control of the local authority over the budget estimate is a matter of form.

But the question is whether there is need for a committee for the scrutiny of estimates. In the Central Government there is a committee on estimates. This committee examines each year

departmental estimates and reports to the Lok Sabha. The committee is composed of members of Parliament and reflects the political colour of the House Can there be a committee of the kind in local authorities or a committee like the Public Accounts Committee which examines the appropriations. There are notable differences between the central Government and the local authorities. The public Accounts Committee or the Appropriation Committee in the Lok Sabha constitute a check by the House on Government. In the local authorities, there is no separate government. The local councils both evolve policy and supervise its execution. If such committees are established in local government, the members would be scrutinising their own actions. There will be no independent scrutiny. The members would be scrutinising something with which they are already familiar. But this does not imply that there is no need for a committee of the kind. The absence of any systematic examination of the departmental activities is certainly a weakness. The scrutiny that exists at present, if at all if there is any, is thus spasmodic and haphazard. Departmental estimates and accounts may well escape close examination by the members for decades as long as there is no breakdown. So there is an urgent need for a committee to scrutinise the budget estimates.

PART V MUNICIPAL CIVIL SERVICE

In a large and complex organization efficiency can only be achieved and maintained by a continuous and conscious effort of leadership and direction from senior officers, It is not sufficient merely to have good methods and clear instructions. As in many other spheres of activity , . the great problem is the human one and the greatest need is to recruit and train those who are likely to be the leaders of the future.

SIR HAROLD EMERSON,
(In 'The Ministry of Works')

CHAPTER XXI

CIVIL SERVICE

If local government is to play the part it has to in the life of the nation, it is essential not only that the best men and women are elected as members but also that efficient civil service is recruited and maintained. A subtantial number of students have taken up post graduate studies in Economics, History and Politics. These three departments of the Gauhati University have the largest number of students. Among them are a number of boys of ability. Such persons are well suited to become officers of local authorities. But many of them, who are most suitable, are not drawn into the local government service. The reason for this is not to be found in the nature of the work nor in the scales of pay. The work is not uninteresting. Then what is the reason ? Popular sentiment is against it and the methods of recruitment are not conducive to attract the best men and women.

Importance of Municipal Service : Since the end of the second world war municipal civil service has assumed more and more importance. This is attested by the fact that the amount spent on the establishment in any local authority exceeds fifty percent of its normal expenditure. In 1853, Butcher was the

only person employed by the Gauhati Municipal Board.[1] Today, the Gauhati Municipal Board employs a variety of personnel and their number is 827 and the total emoluments paid to them is about Rs. 58,480 ; 73p. per month (1965).

Again, the importance of the civil service may be looked at from the point of view of finance. In 1855-56, the total income of the Gauhati Municipal Board was Rs. 7,121. But in 1965 it was Rs. 14 lakhs. It follows that for the administration of this sum a vast civil service is necessary.

Although the civil service of the local authorities increased enormously, there was no systematic classification of the service for a long time. It cannot be said definitely when the present classification was brought into existence. It appears that it has come into existence gradually and is the product of circumstances more than of deliberate planning. Even today, the classification of office assistants is not based on any principle. In some places they are divided into three or even four categories and in most places into two, lower and upper division. The present writer thinks that there is no justification for the present classification. So long as the duties performed by officers are the same, it is difficult to justify the existence of this classification which is a legacy of the past. At present the quality of the recruits entering the lower division is often quite as high as those of the persons in the upper division. This is due to the rapid growth of higher education since 1945. As a consequence the lower division contains a good proportion of highly qualified young men. It is therefore essential that the division of assistants into lower and upper ought to be abolished. The abolition will not result in any fall of standard of efficiency associated with the upper division. On the otherhand it is likely to create a greater espirit de corps among the fellow workers and remove the stigma of inequality.

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[1] His monthly salary was Rs. 40 which was increased to Rs. 47 in 1855. Out of this amount he had to pay Rs. 8 to an assistant and Rs. 4 to each of the three collecting peons. In 1859, the salary of the clerk was fixed at Rs. 30 and that of the Mohurir Hare Singh at Rs. 8 and at Rs. 4 for the 3 collecting peons, Bogaram. Dayaram and Beerdutt per month. The clerk being the only officer of the board was called upon to perform multifarious functions. Hurcaunt Barroah the Sheristadar was requested to look after roads.

Authority to appoint the personnel : The agenceis for the recruitment of local government personnel were three, local authority, the chairman of the local authority or government. The Municipal Act, 1850, did no expressly authorise the municipal board to appoint the municipal personnel. The Act simply said that the rules to be framed by the board must provide for the appointment of the personnel. The Municipal Act, 1864, specifically stated that the chairman could appoint all "such overseers and clerks necessary." A similar provision was made in the Municipal Act, 1876. But the power of the chairman was subject to certain limitations. All appointments to an office, the monthly salary of which was more than Rs. 200, had to be made with the approval of the Commissioner and the Municipal Board. In 1884, the monetary limit was lowered to Rs. 50. The Municipal Acts, 1923 and 1956 removed all these restrictions but imposed a new one namely that no one should be appointet to a post whose pay was partly or wholly contributed by Government, without its sanction. The Municipal Act, 1923, deprived the chairman of the power to appoint municipal personnel. It was vested in the board. The Municipal Act 1956 created two authorities for this purpose. The Act says that the board "at its meeting may, from time to time, determine and appoint the establishment to be employed by it. The proviso to the section says that the "chairman may appoint such persons as he may think fit with the prescribed qualifications if the monthly salary of the office does not carry more than Rs. 50." So the chairman has power to appoint all those whose monthly salary was less than Rs. 50 and the rest were appointed by the board.

Under the Local Boards Acts, the board was the authority to appoint its officers and servants. But this power was subject to certain limitations. Government had power to prescribe the limits within which the expenditure on public works establishment should be incurred. The persons recruited must possess the qualifications prescribed by Government. Above all, the health officer and the Engineer ought to be appointed with the approval of Government and of the Chief Engineer, P. W. D. In case two or more local boards agreed to appoint a "joint board engineer" they should appoint a committee consisting of three delegates from each constituent board with the

Deputy Commissioner as the chairman and the Executive Engineer as the Ex-officio member for the selection of a candidate. The candidate selected by the committee should receive the approval of the Chief Engineer. The veterinary assistant had to be appointed with the consent of the Chief Commissioner.

As regards the village authorities under the Local Boards Act, 1915 and the Panchayat Act, 1926, a village authority could employ such establishment as was sanctioned by the local board. Under the Panchayat Act, 1959, the Secretaries of the Panchayats, Anchalik Panchayats and of Mohkuma Parishads are appointed by Government. The gaon panchayat must constitute a committee known as Administration & Planning Committee which should concern itself with the recruitment of personnel.

Government had power to appoint an executive officer to any municipality.

The existence of several agencies for the recruitment of personnel was one of the reasons why good men are not seeking service in local authorities. The chairman of local authority ought not to have been entrusted with this power. Apart from the fact that the recruitment of personnel for governmental business has become highly complex, one of the standing complaints against the chairmen of the local authorities is that communalism and favouritism influenced them in the appointment of officers of the local authority. There is some truth in this allegation. The fact was that the chairmen were frequently surrounded by a large number of their friends and relatives pressing them to exercise patronage in their favour.

This particular evil was not of course peculiar to local authorities. It was the most widespread weakness of human nature. But of course the motive was not the desire to make money out of this but a desire to do good to a friend. The ties of personal friendship almost always exercise a strong influence in the selection of candidates. How to get over this evil ? A committee of the local authority as suggested by the Hadow Committee is not suitable for the selection of personnel. Because it will not in any way be different from the board. Political considerations are likely to influence the judgment of the members of the committee. Then should this business be entrusted to a Local Appointments Committee ? A small state

like Assam with 11 million population does not require two service commissions. The existing Service Commission may be entrusted with this business. But this does not mean that the Commission will concern itself with the recruitment of manual labour. It ought to concern itself with the recruitment of ministerial officers, technical officers and heads of departments. Recruitment by the Public Service Commission has two merits. The first impartiality in the selection of candidates and the second is, it will free the members of the local authorities from political pressure.

Methods of recruitment : For a long time the local authorities did not adopt any particular method for the recruitment of personnel. Vacancies were not advertised in the newspapers. Since 1930 vacancies were sometimes advertised in the local dailies. In 1962, however, a definite procedure was laid down for the recruitment of Panchayat personnel. All vacancies should be advertised. If the number of applications is greater than the number of vacancies a written examination should be conducted and the candidates should be interviewed. A list of candidates qualified for appointment should be placed before the gaon panchayat. This procedure creates certain complications. Is the panchayat competent enough to conduct the examination ? Who should be entrusted with the valuation of papers ?

It is true that all posts are at present advertised. Even then there is only one announcement. Full particulars such as salary, lines of promotion and conditions of service are not mentioned. The restricted publicity almost eliminates competition. The general practice with regard to ministerial posts is that when a vacancy occurs some one is appointed without advertisement. As a consequence the spoils system has come into existence. If the recruitment had been made by means of a competitive examination it would have contributed materially towards checking the evils associated with the spoils system. Further, the unsuccessful candidate would not have entertained the feeling that he was deprived of a post which legitimately belonged to him. As a matter of fact competitive examination would bring into existence an honest civil service. It is admitted that competitive examination is not applicable for all posts. But that does not mean that it should not be applied to any

All the ministerial staff and technical personnel ought to be recruited by means of a competitive examination.

Probation : Whatever may be the method adopted for the recruitment of personnel, there may be some square pegs in round holes. To get rid of them the principle of probation was adopted. At first, the probationary period was one year. Later on, it was six months. The aim of probation ought to be to find out the suitability of the probationer for the post for which he is selected. If the probationer is not suitable, his services ought to be terminated within the period of probation. In practice, however, the probationer was treated as a permanent servant. As a consequence several persons were condemned for life to an occupation for which they had no aptitude. He was not realised that it was a mistaken act of kindness to retain in service a person who was not likely to be fitted for promotion. Probation ought to have been treated as a reality.

Qualifications : A person recruited for a post must have the necessary qualifications. In 1880, Government laid down in general terms the qualifications of the officers and servants of the local authorities. "No person shall be appointed" says a notification issued by Government on July 17, 1880, " to any office under the District Committee for the execution of public works unless he be qualified, under these rules of good character and physically fit for the situation to which he is appointed . . . Minor office establishment shall have such qualifications as may be considered by the District Committee."

In 1915, Government prescribed in detail the qualification of the Engineers, Surveyors and Sub-Surveyors, Medical Officers and veterinary Assistants. The qualifications prescribed were similar to those of the same grade in Government service. So far as the ministerial servants were concerned they ought to have passed the matriculation examination.

The qualifications prescribed may be classified as general and special. The general qualifications were firstly that a candidate should be a native of the province or domiciled therein for a period of not less than ten years immediately preceding the date of his application for appointment. Foreigners were generally excluded. The first condition was, however, not insisted upon because of the scarcity of candidates.

The second general qualification was age. The candidate must not have attained the age prescribed by rules. This qualification varied from post to post. The third was sex. Women alone were to be recruited for certain posts.

Besides these general qualifications, the candidates had to possess certain personal qualifications such as honesty, tact, persistence, executive ability and personality. The possession of these qualifications is no mean task. It is true that it is extremely difficult to find out these qualifications as the method of evaluation differs from person to person entrusted with this task.

Apart from the personal qualifications, a candidate had to possess academic qualifications. The academic qualifications differed from time to time and from post to post. At first academic qualifications were not prescribed for most posts—particularly to the ministerial posts. This was due to the fact that qualified candidates were not available. Very often office had to go in search of candidates. This was the position till 1920. With the progress of education the supply of qualified candidates has improved. Although adequately qualified candidates were available very often less qualified candidates were recruited. Further, it appears that university men were not preferred even though they were available. " It is a complete contradiction to spend money on higher education," says the Hadow Committee "and to refuse employment to boys and girls who profit by it. The value of university education as a preparation for administrative work cannot be denied. Advanced study supplies background knowledge develops powers of judgement, accustoms the student to handling documentary materials and trains him in the presentation of cases. These are the necessary qualities in a public officer and make an excellent foundation on which to build the practice of administration."

Scale of pay : The right of an officer to a salary depends upon law. Sometimes it depends upon the terms of the contract. But it bears no relation to the value of services rendered. Judge Cooley said, " The salary prescribed by law for the official services of a municipal officer is considered a full compensation for all such services rendered by him during his term. It is generally recognised that the compensation of an officer cannot be increased or diminished during the term for

which he was elected or appointed ; the duties of the office may be made more or less onerous by legislation or may be increased by emergency arising during the term. The officer accepts the office in view of all these possible conditions and impliedly undertakes to render whatever services may be required either by law or by emergency during his official term. He had no legal claim for additional compensation for additional services though the salary be confessedly inadequate."

Law has authorised the local authorities to determine the scales of pay of their establishment. Government could not interfere in the determination of scales of pay. Since the local authorities had complete freedom to fix the scales of pay there was no uniformity in them. They differed from one local authority to another. Further persons performing similar functions in one and the same local authority were given different scales of pay. The basis of this differentiation was sometimes academic qualification. There was one scale of pay for matriculates, another for those that passed the I. A. examination and a third for graduates. The motive in fixing different scales of pay on the basis of qualification is no doubt laudable but it is likely to create discontent. The scale of pay must be related to the functions performed and not to the qualifications. If the aim is to attract competent men the scale must be made attractive and while recruiting graduates must be preferred. Graduates will certainly enter the services provided opportunities for promotions and equitable conditions of service exist.

In the present day salary system there is a minimum, maximum and intermediate rates of pay. The intermediate rates of pay constitute the increments. For a long time there was a no minimum and maximum rate of pay in local authorities and therefore the question of rates of pay did not arise. Increments were given sporadically often as a result of chance availability of funds or to reward particular individuals. Under such circumstances, the amount of increment granted depended upon the degree of political pressure brought to bear on the authority concerned. There was therefore no uniformity nor justice in the sanctioning of increments. To overcome this unsatisfactory condition automatic in grade salary incremental system was introduced in all the local authorities for all the services.

Increments are of two kinds, automatic and semi-automatic. The first was known as the scale of pay attached to a particular post and the employee gets increments at stated intervals. The second was a system in which all officials of a certain class received different rates of pay. Promotion from one grade to another takes place only when a vacancy occurs in the higher grades. Further, the officer must hold a certificate that he was competent to carry on the higher duties of the grade.

One of the objects of the incremental system was to enable an employee to meet his increasing family responsibilities and expenditures as he grew in age. Further, even when a man continues in the same grade his work improves in quality and his efficiency also increases as a result of his experience. Therefore, the incremental system was justified.

The length of the time scale was reasonable. It did not exceed the period of twenty years suggestd by the Pay Commission. Any thing longer than this would unduly delay the time when the public servant could reach the maximum of his grade while anything shorter would keep one man on the same pay for a long time in the latter part of his career.

One noticeable feature of the pay structure of the local authorities was the absence of efficiency bars. Besides salaries, allowances also were given such as the dearness allowance and grain allowance.

One of the main defects of the pay structure of the local authorities was that at no time porvision was made for the periodic adjustment of the salary drawn and the purchasing power of the rupee. If some scheme can be devised by which such adjustments can be made it will automatically increase the efficiency of the service. Further the fixation of the scales of pay ought not to be left to the local authorities. As in Madras and Andhra, Government must assume power to fix the scales of pay for all the employees. Uniformity in pay scales is essential rather the first step in the process of reforming the municipal civil service.

Tenure of Office : A career service is the best safeguard against inefficiency. Yet some of the offices were held on contract. But it must be said that there was no persistent belief as in Madras and Andhra that employment in a local authority was insecure. According to available evidence there was no

abuse of power on the part of the President in regard to removal of officers and servants. Further, the removal of officers could be done only with the consent of the board.

Promotions : Another means by which efficiency of the civil service can be maintained is by providing opportunities to persons with a lively personality to move about both vertically and horizontally. But the local authorities provided no opportunities for promotion. As a consequence a person who entered the service of a local authority as a clerk retired as a clerk. Promotions are possible only when a senior employee dies or retires. Few retire and none dies. Further, there was a Maginot line between one local authority and another. It is suggested that the entire local government service should be treated as one unit. All similar posts in that unit should be treated as belonging to one service. Each of the services may be divided into several grades and vacancies arising in the higher grades may be filled up from the lower grades. A list of candidates eligible for promotion in each service ought to be prepared in consultation with the executive authorities of the local bodies. The list may be revised annually by reference to confidential records. The merit of this plan is that opportunities for promotion will be available and a better class of persons may be attracted to the local government service.

Transfers : Another means for the maintenance of the efficiency of the civil service is to transfer the employees from place to place so that they may acquire experience and knowledge. The transfers are of two kinds, interdepartmental and intradepartmental. The intradepartmental transfers can be arranged by the local authority concerned. But interdepartmental transfers can be carried out only with the mutual consent of the parties concerned. Law did not provide for it. Further, there were a number of obstacles in the way of interdepartmental transfers such as the absence of uniform scales of pay, superannuation schemes and leave conditions. Again, the service rendered in one local authority was not taken into account in another. Above all, the employees themselves were opposed to transfers. While some of these obstacles have been removed others still exist. Absence of periodical transfers induced some of the municipal servants to become parttime politicians.

Discharge : Provision was made for the discharge of servants of the local authorities. The discharge might be either for want of a vacancy or as a measure of punishment. But there could be no discharge of servants who had already left the service. Further, a discharged servant was eligible for re-employment in any department in which he was found suitable. But he need not be preferred if he was an undesirable person. Before discharging a servant for want of a vacancy all efforts had to be made for his retention in service. If it was not possible to retain him in service he had to be given gratuity. The rules prescribed the order of discharge.

Provincialization : Another means by which the efficiency of the services can be maintained is by provincialization . Provincialization is of two kinds. First, control of Government over the local authorities within their jurisdiction in some or all matters relating to their employees without creating a single service for the whole State. Under this system each local authority would continue as a separate self contained unit so far as its staff is concerned. But their conditions of service will be regulated by Government. The second type of provincialization is the creation of a single service for the whole. State and vesting all personnel matters commencing from recruitment and ending with retirement in the hands of a central organization. Under this system the services of certain officers will be placed at the disposal of the local authorities but they would not be under their control.

There is need to provincialise some of the offices, particularly the executive officer, health officer, engineer and superintendent of the office. The reasons are so obvious that they need not be stated here.

Training : Next to recruitment, training is the most important aspect of personal administration. But it has been neglected till 1960. An entrant was not given even the basic clerical training in any office with the result that knowledge of departmental organization and methods of transaction of business were acquired in a fortuitous manner. The usual practice was to pitchfork the new comer straight on the job with the minimum amount of preliminary advice and to leave him to the mercies of his own colleagues. The results were obvious. As he had to learn the work by doing it he adopted wasteful

methods and costly procedures. The local authorities did not realise that an entrant is an understudy and that he should be trained to acquire not only the specialised technique of his department but also a broad mind that will enable him to see things in their true perspective. In resent years attempts were made to give training to the secretaries of panchayats and training institutions have been established for the purpose. Yet it must be said that there was limited appreciation of the value of training. It must be remembered that civil servants must attain precision and clarity in the transaction of business. They must have the capacity to adjust themselves in both outlook and methods to the needs of the new times. All these qualities can be attained only if the civil servant is systematically trained. Provision ought to be made for the training of not only the entrants but also the permanent servants at stated intervals, so that they may obtain latest knowledge in their subjects.

Punishment : Local Acts have provided for the punishment of local government personnel. The Municipal Act, 1850 did not specifically state as to who should exercise this power. But the Municipal Act, 1864, specifically stated that the chairman or the vice-chairman might remove any servant of the municipal board from service. This power was not subject to any limitation. The subsequent Municipal Acts similarly vested this power in the chairman but subject to certain conditions. First, no officer whose monthly salary was more than Rs. 20 was to be dismissed without the sanction of the municipal board. The Municipal Act, 1923, did not contain this restriction. It simply said that no officer whose pay was partly met or wholly contributed by Government should be dismissed without its sanction. It did not specifically state as to who should exercise this power. The framers of the Act might have overlooked this fact. But the Municipal Act, 1956, specifically stated that the chairman shall exercise this power and enumerated the grounds on which a municipal officer may be removed. However, no disciplinary action can be taken against the executive officer or against an officer whose pay is partly or wholly contributed by Government without its consent.

As regards local boards the authority to inflict punishment was not the chairman but the board. The dismissal of a board engineer was however, subject to confirmation by Government.

Similarly, a medical officer of a local board could be removed with the sanction of the Inspector-General of Civil Hospitals. The board had no power to dismiss a Veterinary Assistant. This power was vested in the Superintendent of the Civil Veterinary Department subject to the control of the Director of Land Records and Agriculture. While exercising this power the Superintendent had to consider the views of the local board concerned. In the event of misconduct, insolvency or habitual neglect of duty the local board could suspend a Veterinary Assistant but had to report the matter immediately to the Superintendent Veterinary Department for orders.

A village authority under the Local Boards Act, 1915, and Panchayat Act, 1926 and 1948, could dismiss a servant of a village authority..

Right of Appeal : Prior to 1953, no provision was made for an appeal to Government against the orders of the local authority, inflicting a punishment. But the Local Boards Act, 1953, and the Municipal Act, 1956, provided for a right of appeal to Government against the orders of a chairman. Prior to 1953, the authority to hear appeals was the local authority itself. Since 1953, if the aggrieved party was not satisfied with the decision of the board, he could take a second appeal to Government. Although the board had the right to hear appeals it had no right to revise its decision. At present a municipal servant who is dismissed or removed from service must first take an appeal to the board. If he is not satisfied with the decision given by the board he may take a second appeal to Government. Officers of a rural board have no such right. But it may be noted that the right of appeal is not available for all municipal servants.

From the above it is clear that no adequate protection was provided against arbitrary removable and punishments. While the power to punish must be in the hands of the Executive Officer, the right to hear appeals should have been vested in Government or in the Department concerned. If this business is entrusted to the local authority there would be tremedous discussion in the board. Every appellant is likely to weap, wail and parade his wife and children before the members and appeal for their mercy and sympathy. In such circumstances the merits of the case will not receive attention.

Superannuation: The earlier Municipal Acts did not provide for any kind of superannuation scheme. But the Municipal Acts, 1884, 1923 and 1956 provide for the estabilshment of a provident fund. Municipal boards were authorised to grant pension or gratuity to their servants who retired honourably. They were also requested to establish provident fund or annuity fund. But the boards took no action till 1913. In that year Government suggested to the municipal boards that provident fund ought to be established for their superior servants. Some of the boards accepted the suggestion grudgingly. At present all the superior servants are entitled to contribute to provident fund but the rate of contribution by the board and by the employee differs from board to board.

As regards local boards, they were also authorised to establish superannuation schemes for the benefit of their employees. Excepting Hailakandi no other board provided any kind of superannuation scheme. So in 1910, Government framed rules for the grant of pension and gratuity by the boards. Provision was also made for the establishment of provident fund.

At present all the superior servants of the local authorities have to contribute to the provident fund. But they are not satisfied with the existing superannuation schemes. All of them whom the present writer interviewed insist on a pension in lieu of provident fund. Their argument is that provident fund is not an effective protection against penniless pauperism in their old age.

We have so far reviewed all aspects of personnel administration. Certain board conclusions emerge as a result of this study. First, municipal service was not attractive, because there were no standard scales of pay, no pension and prospects for promotion. Above all, there was a belief that service in a local authority did not protect the dignity of the individual though it has no foundation. Most of the individuals preferred employment in Government to that in a municipal office though sometimes scales of pay in some of the local authorities were more liberal than in Government service.

The second conclusion is that there was no dynamic and imaginative leadership. Leadership consists in intimate contact with the rank and file. The espirit de corps in the army can exist only if the Major is in intimate contact with the corporal.

Such contact did not exist in the local authorities. The official and the non-official chairmen depended entirely on the superintendent of the office.

Finally, there was some amount of favouritism in the recruitment of personnel which undermined the efficiency of the services.

CHAPTER XXII

THE EXECUTIVE AUTHORITY

As long as the magistrate was the ex-officio chairman of local authorities, the appointment of a paid executive officer did not arise. But when the chairmanship was thrown open to an unpaid, non-professional and elected officer, the problem of the municipal executive arose. The Decentralization Commission suggested the appointment of a full time executive officer in bigger municipal boards to look after the executive functions. They had in their mind the practice prevalent in Bombay where the chief executive officer of the municipalities was appointed by Government. The Bombay plan was successful. The Government of India therefore suggested in 1915, to try the Bombay plan. Again in 1918, the Government of India in their resolution on local self-government suggested that where the chairman was a non-official, the administration should be entrusted to a special executive officer. But the proposal was opposed both by the district officer and non-officials. The district officers who were also chairmen of the local authorities did not like to part with power. The non-official chairmen viewed the proposal with suspicion. They thought that it was a device invented by the bureaucracy to deprive them of the few powers given by the local Acts. Unfortunately for local administration the Mahatma started the non-co-operation movement just at this time. The movement undermined the authority of the British in this country. One of the ways by which the Britsih tried to quell the movement was by entrusting the executive fuictions to the non-official chairmen so that they might not join the ranks of the non-co-operators.

The non-official executive had taken different shapes in different places. In most places the chairman exercised all the executive functions. In other places, the chiarman had to share his powers with the vice-chairman. In such places the chairman and the vice-chairman were like the Roman Consuls. In Shillong a peculiar arrangement was brought into existence. The executive was like the Governor-in-Council. The chairman dele-

gated some of his functions and powers to one or two members of the board and they were designated as " Members-in-charge." In Dibrugarh and Jorhat a ' fit member ' was appointed to be charge of a particular function and he was paid an allowance. The Tinsukia Municipal Board suggested the appointment of one of its own members as an executive officer. The suggestion was voted by the Deputy Commissioner.

Whatever might have been the intention in abandoning the suggestion of the Government of India, municipal administration continued to be inefficient, under non-official executive. The collection of revenue was invariably bad ; the enforcement of the penal provisions for the recovery of taxes was rarely resorted to ; the encroachments over public property were not detected and removed ; the salaries of the municipal establishment were not paid regularly ; the provision and administration of the social services was unsatisfactory. Inefficiency, incompetency and corruption became the normal features of some of the municipal boards. Goodmen refused to enter local government service and as a consequence the municipal service was filled up with failures. Persons who had the good of the community at heart quickly realised that the major local authorities ought to have a paid executive officer. The first person to suggest the appointment of a paid executive officer was Debeswar Sharma of Jorhat. The Jorhat Local Board accepted his suggestion but could not give effect to it for financial reasons. Gardiner, a member of the board promised to move the matter in the Assam Legislative Council. He suggested that all the local boards ought to have a paid executive officer. The Government opposed the proposal on the ground that with the appointment of the executive officer, the chairman and the vice-chairman would become non-entities. Some of the non-official members of the Council also opposed the proposal. Thus ended in smoke the first effort to create the post of a paid executive officer for the local authorities.[1]

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[1] A.L.C. p. Vol. 8, p. 852....Speech of Mr. Keramat Ali.
Ibid. p. 850. Speech of Mr. Gardiner.
Ibid. p. 850. Speech of Amarnath Ray.
Ibid p. Speech of Lakheswar Barua.
Ibid p. 854. Beuin Chandra Ghosh.

Statutory Provision : The Municipal Acts, 1850, 1864 and 1868 did not provide for the appointment of an executive officer. But the Municipal Acts,, 1876, and of 1884, provided for the appointment of a paid secretary. The Municipal Bill 1922, also made a semilar provision. But the select committee on the bill omitted the provision without assigning any reason. Perhaps Government was anxious to assure the non-official chairmen that they would not be deprived of their executive functions. But the Municipal Act, 1956, authorised the municipal board to appoint a paid executive officer with the approval of Government or Government can appoint any person as the executive officer of a board. In either case the salary of the officer including his allowance ought to be paid by the municipal board. Government assumed the power to determine the mode of recruitment and the conditions of service of the executive officer.

The Local Rates Regulations and the Local Boards Acts did not provide for the appointment of an executive officer. The Local Boards were however competent to appoint a secretary.

The Panchayat Act, 1959, provided for the appointment of secretaries. The secretaries of the anchalik and of gaon panchayats and of the mohkuma parishads are appointed by Government.

So under the existing circumstances, Government can either direct a municipal board to appoint an executive officer or itself appoint an executive officer to any municipal board without its consent. This provision is practically a dead letter. It was availed of only on two occasions. In 1956, Government informed the Shillong Municipal Board that it should appoint an executive officer in order " to improve the standard of administration." The board replied that the standard of administration would improve with the election of a non-official as its chairman and refused to commit itself in favour or against the proposal.

In 1958, the question appointing an executive officer for the Shillong and Gauhati Municipal Boards was again taken up. The boards were requested to appoint an executive officer with the approval of Government and in accordance with the provisions of the Act " by March 31, 1958." They were also informed that in case they failed to take necessary action Government would take the initiative and appoint an executive officer. The Gauhati Municipal Board unanimously resolved to request Government to postpone the appointment of an executive officer. The Shillong

Municipal Board took exception to the tone of the letter and gave an evasive reply. In arriving at a decision Government adopted a double standard. In the case of Shillong, Government appointed an executive officer, perhaps as a step preparatory to the supersession of the board. In the case of Gauhati the proposal was dropped. Even after the appointment of an executive officer, the Sillong Municipal Board argued that it was not legally competent to give effect to the order of Government and sought its advice as to how it could ultilise his services.[2]

In 1959, Government introduced a bill in the Legislative Assembly authorising Government to appoint an executive officer to any municipal board. Surprisingly the bill was condemned by the leaders of the opposition. Evidently they were speaking to the gallery having the 1962 elections in mind.[3] Again, the question of appointing an executive officer to the Gauhati Municipal Board was taken up. The chairman of the board and the Minister for Local Self-Government discussed this matter on March 6, 1960. The former appears to have agreed to have an executive officer. Government suggested to the chairman the delegation of all the executive functions to the executive officer. It was also suggested that no disciplinary action should be taken against him without the consent of Government.

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[2] I.M.L. 256/54/8 Shillong 28-2-1958.

Resolution No. 6 March 16, 1958 of the Gauhati Nunicipal Board.

Proceedings of the Shillong Municipal Board March 18, 1958. "The board regrets to note the threat given by the Government that if the board fails to appoint an executive officer by March 31, 1958, they will appoint such an officer. Such a threat on the part of Government against a self-governing body is not considered justified and at the same time is derogatory to the prestige of the board."

Ibid. September 10, 1958. Ibid Sep. 29, 1958. The board requested the Government to withdraw the executive officer and the reply of Government was crushing. The board was superseded in October 1958.

[3] A.L.A.P. April 8, 1959. Speech of Hareswar Goswami.

Ibid. Speech of Gauri Shankar Bhattacharjee. Both Goswami and Bhattacharjee were the residents of Gauhati and ought to have known the way in which the board was administered. Nilmani Phookan was the father of the Assam Legislative Assembly with long experience in public affairs. He should have known how the Dibrugarh and Jorhat Municipal Boards were administered. Yet in the name of democracy they condemned the bill. Democracy does not mean liberty to mismanage public affairs.

This proposal brought forth a vehement protest from chairman and the board. The chairman replied, " Personally I am in favour of having an executive officer of the board who will help the chairman and act as directed and guided by him but I am not agreeable to allow the executive officer to exercise all the executive powers conferred by the Municipal Act and thereby convert the municipal board and its chairman powerless. Later on he and the Chief Minister (Bimala Prasad Chaliha) discussed the matter. The latter seemed to have gently persuaded the former to accept the proposal of government. The chairman placed the matter before the board but both of them adopted dilatory tactics which induced Government to adopt a firm attitude. Government informed the chairman that he should send a copy of the resolution of the board approving the proposal for the appointment of an executive officer for the board, "within fifteen days from the date of receipt of the letter, failing which Government would exercise its powers under section 53 of the Assam Municipal Act, 1956 and appoint an executive officer." The municipal board thus brought to its senses agreed to the appointment of an executive officer but redefined his powers and functions and requested the Government to pay his emoluments and allowances " as the financial position of the board is not satisfactory." Government turned down the proposal and directed the board to approve the proposal of Government " both as to powers as well as to the emoluments of the executive officer on or before December 1, 1960, in default the Government will have no alternative but to proceed under section 53 of the Assam Municipal Act, 1956, and appoint an executive officer with terms and conditions and powers as stated above." The municipal board refused to modify its previous decision. Government in its turn refused to budge an inch and threatened to take action under the Act. Thus the board and government came to a distinct clash. The board thought that further resistance to the decision of Government would be futile and adopted a reasonable attitude. It resolved that the executive officer ought to have limited powers viz., the improvement of collection of revenue in the newly included areas and the making of preparations for holding next elections. Government agreed to the conditions and an executive officer was appointed on May 1, 1961. Thus Government took three years to persuade the Gauhati Municipal Board to have an

executive officer. Besides Shillong and Gauhati, Dibrugarh is another municipal board that has an executive officer.[4]

The need for the separation of the executive from the deliberative functions has been emphasised in recent times. The Bihar Government has separated the executive functions of the municipal board from their purely deliberative or policy making functions. Since 1934, the Madras Government has evolved a system of municipal administration where the functions of the executive authority are distinguished from the functions of the governing body and the functions of the presiding officer of the governing body. While the latter functions are vested in an elected body and the elected chairman, the executive functions are statutorily vested in an officer appointed by Govenrment known as the municipal commissioner. This arrangement has been extended to panchayat unions. The Madras Village Panchayat Act, 1950 has provided for a Government appointed panchayat union commissioner to function as the statutory executive officer of every panchayat union. The block development officer has become the panchayat union commissioner. The Madras arrangement has produced good results. There is no reason why a similar arrangement ought not to be made in Assam if local administration is to be efficient and cheaper.

Mode of Recruitment : The executive officer of the municipal boards may be recruited directly or by the re-employment of suitable retired Government servants or by the employment of Government servants. The agency for the recruitment may be either the Government or the individual board. The existing arrangements for the recruitment of the executive officer is unsatisfactory. The business may be entrusted to the Public Service Commissions. There is no other alternative to this if the service is to attract men of ability and integrity.

Qualifications : Let us now consider the qualifications pres-

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[4] The following letters were consulted with regard to the appointment of the executive officer for the Gauhati Municipal Board. Letter No. NML. 198/58/158 of April 1, 1960; Letter No. 798 Gauhati May 17, 1960; Letter No. 1191 Gauhati May 8, 1960; Letter No. ML 198/5/9/188 Shi August 10, 1960; Resolution No. 1, 6-9-1960 of the Gauhati Municipal Board; L.M.L. 198/59/222 Shi Uov. 16, 1960; Letter No. 1810 Gauhati Dec. 10, 1960; Letter No. M.L. 198/59/ January 25, 1961.

cribed for the executive officer. A candidate for direct recruitment must be a citizen of India above the age of thirty but not forty. He must be a graduate and preference should be given to those who possess a diploma in public administration and local self-government or a degree or diploma in civil and sanitary engineering. Further, he must have had at least five years administrative experience in a responsible post under Government, a commercial undertaking or a local body, preference being given to a candiate having experience of work under local bodies, especially as members.

The qualifications prescribed for the executive officer are not satisfactory. Diploma in civil and sanitary engineering is not a desirable one. Nor should any preference be shown to members Then what ought to be the qualifications to be possessed by the executive officer ? The Hadow Committee held the view that legal qualification should not always be insisted upon, particularly in bigger local authorities. Insistence on legal qualification might result in the loss of services of men with administrative ability. The executive officer on the otherhand must have knowledge of public finance and a comparative knowledge of local government. Above all he must have a knowledge of the principles of organization so that he may organise and staff the office on efficient lines. In any case, administrative experience should be insisted upon.

Powers and functions : Law lays down that all executive power should be vested in the executive officer. He is responsible for the accounting of expenditures, for the collection of revenues, for the issuing of licences of all kinds, for the execution of the decisions of the board unless it is cancelled by an appropriate body. The Executive Officer should submit periodically a report on the progress of works under execution and the collection of revenue to the board. He ought to report to the chairman promptly all cases of fraud, embezzlements, theft, loss of municipal property and the control of municipal staff. The executive officer may attend the meetings of the board with the consent of the chairman or by virtue of a resolution of the board and participate in its deliberations. He must comply with all requisitions from the boards or its committees for the supply of any information regarding any matter relating to municipal administration.

The executive officer is entrusted with certain emergency

powers which he must exercise with the consent of the chairman or vice-chairman and report the matter forth with to the board explaining the circumstances in which he was compelled to exercise the power. Above, all, he has power of inspection though it is subject to various limitations.

One or two comments may be made in connection with powers and functions of the executive authority. The executive officer must have a seat and a voice in the board but no vote. He must have the right to participate in its deliberations to place his point of view before it. Secondly, he must have complete freedom with regard to the exercise of his emergency powers. Emergency is an emergency and the responsibility to meet it must be placed squarely on the shoulders of one person. The division of this responsibility vitiated the effective exercise of this power. But of course the executive athority ought to forthwith report the circumstances in which he was compelled to exercise his emergency powers.

These are not the only functions of the executive officer. There are certain functions which have not been mentioned in the rules but nevertheless which he must perform. It is his responsibility to see that things get done. He must marshal and use the resources of the local authority. He must carry out the municipal programme in an effective manner. He must help the local authority in the formulation of its policies. In this process he must decide what is to be done. This includes three steps the determination of what is needed, the determination of the limits within which most people will accept a policy the determination of what can be done from a practical and financial stand point.

Discipline: The municipal board has no power to take disciplinary action against the executive officer except with the approval of Government. If the board considers that disciplinary action ought to be taken against an officer whose services have been lent to it, it must first conduct an enquiry and revert the officer concerned to the lending authority for necessary action. As regards others, the approval of Government must be obtained before taking action. The aggrieved person has a right of appeal against the orders of the board.

The Executive Officer and the departmental heads: The present position of the executive officer in relation to the heads of departments is unsatisfactory. He is supposed to see that nothing

goes wrong in the board but he has little power to do so. He is supposed to co-ordinate the activities of the heads of departments but he has no power to impose his will on them. He can only cajole and persuade them. He cannot compel them to accept his decisions. He is responsible for stimulating the activities of the departments but has no control over them. Although they are under an obligation to keep him informed they are under no obligation to discuss their plans with him in advance. Every department is adopting and attitude of sullen aloofness from other department and desires to plough its lonely furrow. The independent and disconnected activities of the departments have reached such a point of confusion that something must be done. Otherwise there would be further deterioration in the efficiency of administration. Then what should be done? The chief executive officer must have the power to coordinate the activities of the board. While the departments should be under the control of the specialists, they should be sub-ordinate to the generalist because the specialist will not be able to understand the relative importance of his own functions as a part of the whole. As a matter of fact very few specialists seem to care about anything beyond their own speciality. This does not mean that specialists are narrow human beings. But concentration and preoccupation with a particular problem breeds impatience with anything not directly in the line of their vision. An excited and conscientious health officer educational officer or executive engineer is likely to see all else as an adjunct. This mental development on the part of the specialists has created disunity, rather than order, confusion instead of coherency and digress instead of progress. Human happiness cannot be promoted until each technologist has learnt to subordinate his expertness to the common purpose.

Now what ought to be the relation between the Chief Executive Officer and the departmental heads ? The executive officer should be the general controlling authority over all departments of the board and the heads of the departments his assistants. The technical heads may suggest ways in which the plan should be shaped from their own point of view. The executive officer should have the liberty to modify it in such a way as to ensure that the development of the board as a whole proceeds as a combined operation. He should have the power to determine what should be done and when it should be done and the time

within which it should be done. A successful executive should be in closest touch with the heads of the departments. It will be good if the chief executive and the departmental heads meet once a month to know the progress of work in each department.

Then what are the rights of the specialists? The specialist has the right to demand that his advice should be sought. There were no doubt cases in which administrative officers have taken decision on technical matters without consulting the technical advisers. That position is clearly indefensible and may lead to serious mistakes being committed. So a specialist must be consulted on all technical matters. But it does not follow that his advice should be accepted. Wider considerations than the intrinsic merits of the proposals have to be weighed. What is desirable may not be expedient. So the advice of the specialists may have to be rejected. But in purely technical matters the advice of the specialists may be accepted. If this arrangement is accepted the relations between the technical head and the executive officer ought to be as stated by the Ministry of Health (England) to the British Medical Association.

1. The work of the local authorities consists of various elements constituting with reference to which the policy is framed.

2. In order to frame that policy it is necessary for that authority to study these elements in their relation with each other.

3. To assist in this process it requires the services of an officer able to view the work of the department as a whole and to bring them into proper relation with each other.

4. This officer can be no other than the clerk.

5. The facts stated under the foregoing heads do not either in principle or in practice in any way involve the assignment to the clerk of any functions which properly belong to the medical officer of health or to any other professional officer appointed by the council.

6. It follows from these facts that official correspondence between the local authority and the Ministry should be conducted on the side of authority through the clerk.

Executive Officer and the Chairman: Generally, the chairmen of the urban boards are intelligent and experienced and therefore the executive officer will have to observe traditional

proprieties. The case is different in the case of panchayats. A majority of the chairmen are inexperienced, devoid of knowledge of local administration and therefore depend upon the secretaries for the interpretation of rules and government orders. This will continue until the presidents are educated and understand their powers and functions. In the urban areas the position is different. So far only three municipal boards had a paid secretary and the position assigned to him by the chairman is not logical. So the question arises as to what ought to be the position of the executive officer in relation to the chairman.

Anticipating that all municipal boards will have an executive officer in the near future there should be a clear definition of the functions and powers of the authorities so that the relations between the two may be harmonious. The chairman should concern himself mainly with the legislative functions viz., presiding over the deliberation of the board, preserving order and decorum, at the meetings, deciding points of order, prohibiting a member from voting or taking part in the discussion on a matter in which he is interested.

The Executive Officer should carry on the general correspondence of the board but official correspondence between government and the board should be conducted through the chairman. The chairman should transmit all communications addressed through him to Government. Similarly the executive officer should correspond with the heads of the departments, Deputy Commissioner and the Commissioner only through the chairman except in the case of D.O. letters. When the chairman wishes to initiate any correspondence the executive officer must prepare the necessary drafts and issue them under his signature. If the chairman wishes to carry on such correspondence directly without the intervention of the executive officer the latter ought to be informed of all such matters with which he is in any way concerned. The executive officer should allow the chairman to have access to records at the municipal office. If, however, the chairman finds it impossible to attend office the records may be sent to his residence and the chairman should be held responsible for their safety.

The executive officer must be held responsible for the preparation of the agenda in consultation with the chairman but it should be issued under his signature. The chairman should not

prevent the executive officer from placing any matter which the latter considers as important before the board. The chairman can submit a note on any item included in the agenda for the information of the board. Similarly, the executive officer shall have an opportunity to record his views in a note and place it before the board. If a member of the board gives a notice of a motion which is not in order the executive officer in consultation with the chairman may draw the attention of the member to facts.

All the municipal servants and officers must be subordinate to the executive officer. If the chairman wishes to give any instruction to the municipal officer he should do that through the executive officer. The chairman ought not to prepare the estimates for any work without the knowledge of the executive officer.

The executive officer should obtain the previous sanction of the chairman if he requires casual leaves or proposes to avail himself of holidays and leave the station. In case of an emergency where such previous sanction cannot be obtained in time the executive officer should intimate the chairman of the fact.

Executive Officer and the Local Authority: What should be the relation between the executive officer and the local authority. It may be said that the local authority should have full powers of control over the executive officer. This condition is consistent with the autonomy of the local authority. But the condition precedent for the existence of this situation is that the chairman and members of the local authoroy should be persons of sufficient intelligence who understand their powers and responsibilities. This condition is unfortunately true only in a few cases. However, let us picture the kind of relation that ought to exist between the two.

The executive officer has a definite responsibility to participate in policy making. The local authority expects him to be a man of ideas. But he should not become a dictator. The board must have the right to accept or reject his advice. His views will prevail so long as he commands the confidence of the board. By reason of his position as the administrative head of the local authority he should be more aware of the needs of the town than any one else. Naturally he becomes the clearance house of ideas. An executive officer who is not capable of ren-

dering sound advice to the council will not be fulfilling his obligations to the board. Any person who is unable or unwilling to serve the council as adviser on policy matter should not accept the post.

As a matter of fact the executive officer must initiate policy. But of course he should know when to initiate and when to keep quite. He should have no pride of authorship of policy matters so long as the policy adopted is sound and in public interest. Occasionally it may be necessary for him to take a forward position in recommending a policy but he should not go too far ahead of the local board. At all times he must subscribe whole-heartedly to the dictum that the board elected by the people should enjoy the spotlight and assume the responsibility. The executive officer should remain in the background as the agent of the board. He should make every effort to give the board all credit for sound decision making. He should remember that the programme prepared by him can be put into operation only if it is adopted by the board. So the first duty of the executive officer is to sell his ideas on their merits to the board.

Further, the executive officer must at all times command the confidence of the members of the board rather than depend upon the support of any group, faction or individual. He should not discuss with individual members matters which may later be considered as matters of public policy. Exception must be made to this general rule. Custom, tradition and legal provision may dictate that the chairman is the official who initiates the policy. Therefore, he must work closely with the chairman in regard to development programmes. He must furnish him with materials so that he may promote policies. Again, he should not induce an individual member to take the initiative for promoting a policy. If the other members come to know this they may suspect that the executive officer is trying to promote the interests of the member.

Under any circumstances, the executive officer should not take the initiative in controversial matters. If the policy has strong political ramifications he should remain aloof. He may render the best possible advice and furnish unimpeachable information but he should not get himself embroiled in a clearly partisan political controversy. This does not mean that he

should avoid it simply because it is controversial. His responsibility is to see that the board has all the available facts together with his recommendation.

Again, the executive officer must have nothing to do with partisan political issues, moral and regulatory issues public versus private ownership, internal operations of the board, relation with independent and other governmental bodies except as directed by the instructions of the board.

It is the duty of the executive officer to submit any urgent issue of policy to the board. If a policy is likely to be detrimental to the community the executive officer should not hesitate to say so. If a particular proposal is discriminatory or will alienate or antagonise certain sections of the community or illegal or unconstitutional he ought to point it out. When the board is considering a matter which is highly complex and technical the executive officer must take greater responsibility in advising it. But he must be bold in regard to policies which directly affect the administrative organization. He must strive at all times to maintain his integrity with the board. It is his duty to oppose poor policy decisions by objectively presenting facts.

Above all he must be careful to strengthen the democratic process of local government. It is his duty to generate public respect and confidence for the local authority. He should not make disparaging remarks about its members.

It must, however, be admitted that the position occupied by the executive officer is a difficult one. He is assailed by different ambitions. He is bullied by the local press. He is attacked by the chairman. He is challenged by the facts of the situation. To face all these facts, the executive must have all the qualities of a leader.

PART VI INTER-GOVERNMENTAL RELATIONS

"the present state of local government services and administration in Great Britain has been largely due to an ever increasing pressure by departments of the Central Government."

Report of the Indian Statutory Commission
Vol. I, p. 310.

CHAPTER XXIII

INTER-GOVERNMENTAL RELATIONS

Federal-Local Relations : It is one of the principles of our federal system that no direct relationship ought to exist between the Union Government and the local authorities. The Union Government supposedly deals exclusively with the States. When it is a question of grant-in-aid for the promotion of education, for the supply of protected water or for the construction of a highway, grants are placed at the disposal of the State Government for distribution among the local authorities in accordance with the terms of the grant-in-aid laid down by the Union Government. If a local authority has to seek the assistance of the Union Government, it goes to the State Government and not to the Union Government. The federal agencies do not deal directly with local authorities. It is true that in the United States the federal government has been able to establish direct contact with the local authorities through grant-in-aid. But we have not reached such a state of affairs, though the tendency is in this direction.

State Legislature and the Local Authorities : The classic statement on the legal relations between the State Legislature and the local authorities was made by Judge Dillon. Dillon said "Municipal corporations owe their origin to and derive their rights wholly from the legislature. It breaths into them the breath of life without which they cannot exist. As it creates so it may destroy, it may abridge and control. Unless there is some constitutional limitation . . . . the legislature might by a single

act, if we can suppose it capable of so great a folly and so great wrong, sweep from existence all the municipal corporations."

This sweeping statement was challenged by another famous jurist Cooley. Cooley said " The State may mould local institutions according to its view of the policy or expediency but local government is a matter of right and the State Government can not take it away. It would be the boldest mockery to speak of a city possessing municipal liberty where the State not only shaped its government but at its discretion, sent its own agents to administer it or to call that system one of constitutional freedom under which it would be equally admissible to allow the people full control in their local affairs or no control at all." Cooley went further and stated that the right to local self government is recognised by law as of common law origin and having no less than common law franchise. This has been recognised by most of the State constitutions in the United States. Accordingly, the State courts of Florida, Indiana, Kentucky, Iowa, Texas and Montana checked any attempt on the part of the State legislature to encroach on the liberties of local authorities. In this country also the State legislatures do not have such a right. First, the bills relating to local administration, after they have been passed by the State legislature, may be submitted to the President for his approval. The President can return the bill to the State Legislature for reconsideration or he may suggest the deletion of clauses which are not in accordance with the spirit and letter of the Constitution. Second, the Directive Principles of State policy enjoin the State Legislature to observe certain principles. It may be argued that the Directive Principles are simply directives and therefore not binding on any one. Legally this is true. But there is the moral force and political pressure behind them. Third, any attempt to abolish local authories will be construed as undemocratic and therefore offends the principles enshrined in the Preamble to the Constitution which say that India shall be a Democratic Republic. Fourth, any such attempt may be challenged in a court of law. Above all, there is the public opinion which acts as a powerful brake. Even if the State Legislature tries to exercise this power, the President may veto such legislation as he did in the case of Madhya Pradesh. Further although local self-government is one of the subjects enumerated in the

second schedule to the Constitution, by an amendment, the Union Parliament may deprive the State legislature of this power.

Let us now consider the sources of legislative control. The first is local pressures for changes in the Act. Prominent citizens and associations may feel the necessity for changes in the Local Acts. At their request a member of the legislature may introduce a bill. Since the chances of a private bill being enacted into law are remote they may persuade the minister concerned to undertake the legislation. Or the Department itself may suggest amendments to the existing legislation.

The principal formal means by which the State Legislature may exercise control over the local authorities are four. *First*, by putting questions and eliciting answers. By this method a member may not only elicit answers but also induce the ministers to commit himself to a particular course of action. The question hour is a deadly weapon before which even dictators begin to quail. It is the search light on administration and yet it may be said that it is of limited value as a means of control. The Minister may refuse to give information or refuse to admit the existence of a grievance. Everything depends upon the personality of the Minister or on the nature of question. *Second*, by means of adjournment motions a member may spotlight the activities of a local authority. *Third*, the legislature may order an enquiry into the working of any local authority. *Fourth*, it may repeal or amend the existing legislation and thereby deprive the local authorities of their powers. Or it may fix the period during which certain powers may be exercised. Since the legislature can do all these things the local authorities tend to act responsibly.

Yet it must be said that the legislative control over the local authorities is ineffective for several reasons. *First*, power is dispersed. The volume of business is so great that the legislature is not in a position to look into every detail unless things become shockingly bad. The legislature as a whole can really master and decide a few main issues. *Second*, even if it can do that there is no adequate administrative machinery to see that the local authorities conform to the laws passed by the State legislature. *Third*, the legislature itself is not fitted for the enforcement of the laws it enacts. *Fourth*, the effectiveness of

the legislative control depends on the extent to which the judges interpret laws. Inspite of these defects the system of legislative control has in the past produced good results. It is one of the best assurances to the local authorities that administrative control would not be excessive. The heads of the Departments of the State Government are compelled to adopt a conciliatory attitude towards the local authorities because of the influence they may be able to exert over them through the legislature.

Local Authorities and the Judiciary : A local authority is like an individual. In the discharge of its functions if it injures the rights of any person or body of persons action may be taken against it for damages. But it may be noted that the local authority occupies a privileged position as compared with individuals. For, it is expressly given special powers to do certain things which ordinarily involve liability but exempted from it. This is necessary in order to enable it to perform its functions. If a private individual compels another to hand over his money even for such a laudable purpose as the construction of a building for an elementary school or dispensary he will be offending the property rights of the latter and therefore legally liable. But local authorities have power to compel the local inhabitants to pay taxes and commit no wrong by so doing. Again, a local authority may acquire the land of a private individual although such an action would be wrong if done by a private individual. Further, a local authority is often given power to do certain things which may injure the neighbouring lands. If a private person does the same thing he is liable to legal action. For instance, a municipal board may be given absolute power to set up a small-pox hospital even if this should create nuisance to the neighbour or it may be given this power subject to the condition that no nuisance is created. So it is necessary to examine the powers of the local authorities to ascertain in what matters and to what extent it is exempt from the rules of liability and whether the action the local authority is ultra vires. Who is to perform this function ? The answer is obvious-courts. Thus while the purpose of the legislative control is principally to control policy, the end sought by judicial control is to ensure the legality of their action.

The necessity for judicial control has arisen for other

reasons also. The local authorities are endowed with immense powers to decide questions of a kind which were formerly referred to courts of law. They deal with vital matters and in very many cases their decisions are as conclusive and binding as those of the courts of law. These immense powers afford opportunities for corruption and unfair dealings. Again, the supervising authorities are far away and local affairs may appear to them to be trifling. It is therefore, essential that there should be an independent authority like the judiciary to see that law is properly interpreted and that the individual is protected from petty tyrannies of the local authorities.

The courts however, do not enjoy unbridled freedom to interfere in the affairs of the local authorities. They have to observe certain basic principles. *First*, as long as a local authorities has acted or appears to have acted within the authority given to it by statute the courts should refrain from enquiring whether it has exercised its discretionary powers soundly.[1]

Second, where the municipal councils entrusted with judicial functions have exercised them bonafide, not influenced by extraneous or irrelevant considerations, the courts will not interfere.[2]

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[1] This principle has been clearly stated in *Roberts* vs. *Hopwood*. Lord Sumner said "Much was said at the Bar about the wide discretion conferred by the Local Government Acts on the local authorities. In a sense this is true but the meaning of the term needs careful examination. . . . . There are many matters which the courts are indisposed to question; though they are the ultimate judges of what is lawful and what is unlawful, they often accept the decision of the local authorities because they are themselves ill-equipped to weigh the merits of one solution of a practical question as against another. This however, is not a recognition of the absolute character of the local authority's discretion but the limits within which it is wise to question it. There is nothing about a council that corresponds to autonomy. It has great responsibilities but the limits of its powers and of its independence are such as the law mostly statutory may have laid down and there is no presumption against the accountability of the authority. Everything depends upon the construction of the sentences applicable?

[2] Lord Loreburn said in the *Board of Education* Vs. *Rice* "I need not add that the board of Education must act in good faith and fairly listen to both sides for that it is aduty lying upon any one who decides anything. But if the court is satisfied that the board has not acted judiciouly in the way I have described above or have not

Third, statutes creating duties frequently prescribe the procedure to be followed for the performance of those duties. As long as the authority concerned observes the procedure and acts within its jurisdiction it is immune from judicial interference. But as soon as it ventures outside its jurisdiction it immediately becomes exposed to the chill winds of legal liability and the immunity fades away more quickly than the setting sun.

Fourth, the courts do not interfere as long as the local authorities do not commit acts of misfeasence.

Finally, courts ought not to interfere with the decision of local authorities on the ground that the reports and records, on the basis on which orders were issued were not disclosed and that the procedure usually followed in the courts of law was not followed in deciding cases.[3]

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determined the question which are required by law, the courts may interfere. This principle was restated by Viscount Haldane in *Local Government Board* vs. *Alridge*. Haldane said "Where the duty of deciding an appeal is imposed those whose duty it is to decide it must act judiciously. They must real with the question referred to them without bias and they must give to each of the parties the opportunity of adequately presenting the case. The decision must be arrived at in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice. But where discretion is exercised in an arbitrary manner or without jurisdiction the courts may step in and check the authorities. This principle was laid down in the Metropolitan Asylum District *vs.* Hill by Blackburn.

[3] In Local Government Board *vs.* Arlidge, it was stated that local authorities need not follow the procedure usually followed in courts of law. They may follow any procedure they think fit. They need not administer oath and need not examine witnesses. They may obtain information in any way they think fit so long as the parties are given an opportunity to cover and contradict statemens likely to prejudice them. Lord Shaw of Dunfermline said, "I feel certain that if it were laid down in courts of law that such disclosures could be compelled, a serious impediment might be placed upon the frankness which ought to obtain among a staff accustomed to elaborately detailed and often must delicate and difficult tasks. The very same argument would lead to the disclosure of the file. It may contain and does frequently contain the views of inspectors, secretaries, assistants and opinions many differ but all of which form the material for the ultimate decision . . . and the disclosure of such reports would be inconsistent with efficiency, with practice and with true theory of complete parliamentary responsibility for departmental action."

Means of Judicial Control: The judicial remedies available to the public are two, ordinary and prerogative ordinary remedies are declaration, injunction and damages. Prerogative remedies are certiorari and mandamus.

Declaration: Any person entitled to any legal character or to any right as to any property may institute a suit against any person interested in denying his title to such character or right with a view to perpetuate and strengthen his title so that any adverse attack may not weaken it. The policy of the legislature is not only to secure to an aggrieved party a right taken away from him but also to see that he is allowed to enjoy the right peacefully. In other words, if a cloud is cast upon his title or legal character he is entitled to seek the aid of the court to dispel it. If some step is not taken at once to have all the doubt and difficulty removed it may at a later time be difficult for the plaintiff to prove his title. Evidence now forthcoming may not be available hereafter. This remedy is, therefore, designed to make things clearer and prevent future litigation. It confers no new rights. All that it does is that it clears up the mist that has been gathering round the plaintiff's title.

A declaratory decree may be granted to a plaintiff who is entitled to any legal character or right as to any property and the defendant is denying the character or right. Therefore, the plaintiff should show to the satisfaction of the court that he is entitled to the legal character or right, as to any property and that the defendant is denying such character or right. But the issue of a declaratory decree is within the discretion of the courts. It is not granted as a matter of right. The courts may refuse to pass a declaratory decree where the real object of the plaintiff is to evade stamp laws, where the plaintiff is entitled to get relief in some other effective way, where the case is of such a nature that the decree if passed might immediately be rendered nugatory by an action of the defendant, where it is not of practical use, where it will not render substantial relief, where there is no substantial injury or where the suit is filed with a fraudulent intention.

Injunction: The next means by which courts control local administration is by injunction. Injunctions have been classified into temporary and perpetual. Temporary injunctions are issued with a view to preserve the property in dispute in status quo

until further orders. Perpetual injunctions are issued after considering the merits of the case. It prohibits the defendant from asserting a right.

The plaintiff asking an interim injunction must satisfy the court that its interference is necessary to protect him from the irreparable damage that will result if an injunction is not granted. But an injunction should not be granted to a person whose conduct and dealing in the matter have been unfair and dishonest or, if a particular procedure has been prescribed for the trial of suits and if the procedure excludes the issue of injunctions when an equally efficacious relief can be obtained by some other means. Finally, courts are prohibited from issuing an interim injunction restraining an election officer from preparing and publishing an electoral roll or from conducting an election.

Damages: The damage or injury for which compensation is exacted may be irreparable; it may be so personal or vital that a pecuniary equivalent is unthinkable. And yet the device of righting a wrong by the payment of money is as old as any other human institution. The underlying principle by which courts should be guided in awarding damages is that the law shall endeavour so far as money can do it to place the injured person in the same situation as if the contract had been performed, or in the position he occupied before the occurrence of the tort which adversely affected him. This is an ideal which is rarely attained in practice because the damages awarded are not always commensurate with the loss sustained.

An action for damages can be brought against a local authority only when it has done something which causes injury in the legal sense. Therefore, a person who claims compensation must prove three things. The local authority has exercised its powers; that he was not in default ; that he had suffered damages and the amount of damages should be expressed in rupees and paise. It should however be said that compensation should be paid out of public funds only when the authority concerned caused damages while performing acts authorised by the Act.

Certiorari: The fourth means by which local authorities are controlled is certiorari. The writ of certiorari is issued by the Assam High Court to an inferior court commanding it to send up all records of a specific proceedings before it to the High Court so that the legality may be tested or that more speedy

justice may be done. The writ of certiorari is issued to quash judicial decisions of an inferior court. But before issuing a writ it ought to be seen that there is no statutory prohibition. Very commonly statutes contain provisions prohibiting the removal of proceedings by a writ of certiorari. Again, when a particular procedure is prescribed for the performance of certain acts and as long as the public bodies observe the procedure and act within their jurisdiction no writ of certiorari ought to be issued. Above all sometimes the aggrieved persons are given the right of appeal to a higher court against the decisions of local authorities. Where this provision is made in the Act or in the rules made thereunder the High Court is prohibited from issuing a writ of certiorari.

Mandamus: The Assam High Court may issue an order requiring any person holding a public office to do a specific act which he ought to have done. In other words, the principles governing the issue of writ of mandamus apply to a large extent to the granting of relief under section 45 of the Specific Relief Act. The writ of mandamus is an order issued by the courts commanding the person holding a public office to do a specific thing. Ordinarily, the writ will not be issued when there is another specific and equally effective remedy for enforcing the right. This is not an absolute rule. Sometimes the writ of mandamus may be issued even though a remedy equally convenient beneficial and effectual exists provided public policy requires it ; or where a local authority is refusing or neglecting to carry out duties or acting in deliberate contempt and defiance of the legislature or where the alternative method is not so convenient as a writ of mandamus will be.

But the writ should not be issued to enforce the general law of the land or to compel a local authority to carry out a statutory duty which is merely permissive and obligatory or as long as it acts within its jurisdiction.

Judicial protection however is not effective. Judiciary never takes the initiative. The initiative must be taken by a private citizen or by some one interested in the affair. The consequence is that innumerable cases are brought to its notice for various reasons. *First,* litigation is expensive and the aggrieved party poor. *Second,* a resident does not want to take legal action because he is unwilling to court the displeasure of another

resident. *Third*, the local authorities may refuse to produce certain documents before the court on the ground that it is not in public interest. *Fourth*, the local authority has such inexhaustible financial resources that it need not hesitate, as most private persons do, to appeal to the High Court or even to the Supreme Court when the decision of the lower court is not in its favour. *Fifth*, under all the local Acts, legal action against a local authority for any commission or omission cannot be taken until the expiration of one month next after a notice was delivered at the office, explicity stating the cause of action and every such action shall be commenced within three months next after the accrual of the cause of action and not afterwards. *Sixth*, action against a member of a village authority or local board could be taken only after obtaining the permission of government. *Seventh*, if a local authority defends itself successfully the person who started the attack can be made to pay the costs. *Eighth*, the delays and technicalities which beset the progress of cases in courts seriously diminish the usefulness of the judiciary as a means of control.

Finally, an invidious distisction was made between the Presidency towns and others. The prerogative writs like mandamus and certiorari were applicable to acts committed within the ordinary original civil jurisdiction of the Calcutta High Court. In other words people living outside the limits of the Calcutta High Court were denied of this privilege. Since Assam was not under the original jurisdiction of the Calcutta High Court, the prerogative writs were not available to the inhabitants of Assam. It ought to be remembered that these two ancient writs constituted a remedial process of extraordinary nature available only when no other suitable remedy existed. The importance of these writs can only be established if only we notice the misdeeds of the administrative tribunals. However, the situation has been remedied by the present Constitution.

Local Boards and the Village Authorities: Under the Local Boards Act, 1915, the village authorities were placed under the control of the local boards. The village fund consisted of the contributions made by the local boards. A local board could transfer any of its duties and functions to the village authority and the latter had to carry them out. Further, "it shall be the duty of the local board to enforce the responsibility imposed

on a village authority," and the village authority had to submit to the local board such registers, accounts and statistics as directed by Government.

A village authority was bound to carry out all lawful orders issued to it by the local board and the board could set aside or revise any decision arrived at by a village authority in regard to matters placed under the control of such authority. If a village authority did not agree with such orders it could request the board to refer the matter to the Deputy Commissioner for his decision. The board was bound to refer the matter to him.

A village authority could appoint such establishments on such salaries and allowances as the local board might sanction. A local board could abolish any post sanctioned by it. It could prescribe the qualifications of the candidate for employment by a village authority. It could veto any appointment and dismiss any employee of a village authority. A village authority could dismiss any servant appointed by it only with the consent of the local board.

A local board could delegate to a village authority the execution of any work the estimated cost of which did not exceed Rs. 250 or with the previous sanction of the Commissioner, the execution of any work the estimated cost of which did not exceed Rs. 500, the management of any primary school, dispensary, bazaar, ferry or serai, the duty of preserving and maintaining any tank which might have been set apart for drinking or culinary purposes and the supervision of any place which might have been set apart by the board for the burning or burial of the dead.

Again, a local board ought to assign to a village authority funds sufficient to enable it to exercise any power or perform any duty delegated to it. The village authority had to submit to the local board on or before such date as it might fix, an estimate of its receipts and expenditures in the succeeding financial year together with a list of new works. The local board could revise the budget of the village authority. No expenditure provided for in the budget ought to be incurred until it was sanctioned by the local board.

The village authority had to submit to the local board every month a copy of the cash book supported by the paid receipts in original for scrutiny. It had also to submit an annual report detailing the work done by it during the previous financial year.

The Rural Panchayats and the Primary Panchayats: The Panchayat Act, 1948, brought into existence two kinds of panchayats, the rural panchayat and the primary panchayat. The relations between the two were determined by the Act. The primary panchayat might act as the agent of the rural panchayat and had to follow the directions given to it from time to time. A rural panchayat could in consultation with the president of the primary panchayat appoint its secretary. It could request him to call for a meeting of the primary panchayat. In case the president failed to call for a meeting the president of the rural panchayat could call for a meeting. Again, every primary panchayat had to elect one representative for every two hundred of its members or a fraction thereof to the rural panchayat.

Gaon Sabha and Anchalik Panchayat: The Panchayat Act, 1959, which superseded the Panchayat Act, 1948, also brought into existence two types of panchanyats, the gaon panchayat and the anchalik panchayat. The relations between the two are similar to those between the primary and rural panchayat under the Panchayat Act, 1948. A copy of the resolution of no-confidence against the president and vice-president passed by the Gaon Sabha must be submitted to the president of the anchalik panchayat. Every gaon sabha shall be represented in the anchalik panchayat by its president and three representatives elected by the members of the panchayats within its jurisdiction. The gaon panchayat must submit its budget to the anchalik panchayat for its approval. Further, any person aggrieved by an assessment, levy or imposition of any tax or fee imposed by the gaon panchayat can appeal to the anchalik panchayat whose decision is final.

Anchalik Panchayat and Mohkuma Parishad: As regards the relations between the anchalik panchayat and the mohkuma parishad, the presidents of all the anchalik panchayats within the jurisdiction of the mohkuma parishad are the ex-officio members of the parishad. The anchalik panchayat must submit its budget to the mohkuma parishad for scrutiny and approval. The decision of the mohkuma parishad is final. Again the mohkuma parishad is responsible for reviewing the work of the anchalik panchayat from time to time. It may also give advice and guidance whenever it is sought. It is also concerned with the coordination of the work of the anchalik pan-

chayats if the programme pertains to more than one anchalik panchayat. It also advices Government as regards the distributuion and allocation of funds and grants to the different anchalik panchayats. Thus, the anchalik panchayat is tied to the chariot wheel of mohkuma parishad.

Prior to 1960, the panchayats had to submit their budgets to the Deputy Commissioner, who scrutinised the budget to see that certain specified statutory requirements were fulfilled. For example he had to satisfy himself with the adequacy of the provision for meeting obligatory expenditures. But the Mehta Committee suggested that this function should be entrusted to the Panchayat Samities. Accordingly, the Panchayat Act, 1959, laid down that gaon panchayat must submit its budget to the anchalik panchayat and the anchalik panchayat to the mohkuma parishad for scrutiny. But the scrutiny of the budget is not clearly the function of a local authority because it cannot be expected to make any material contribution to technical scrutiny. The best arrangement appears to be that the responsibility for framing the budget should be placed on the local authority concerned. After the budget is passed it must be submitted to the Inspector of Local Boards for technical scrutiny comment and advice. The anchalik panchayat or the gaon sabha should be held fully responsilble for the decision it takes after receiving such comments and advice. There should be no occasion for approval by an external authority after the budget is sanctioned by the board.

CHAPTER XXIV

INTER GOVERNMENTAL RELATIONS (CONTD.)

Of the three controls legislative, judicial and administrative the last is preferable for several reasons. First, the legislature must in the nature of things be a partisan political body and the control exercised by it over the local authorities is likely to be influenced by partisan considerations. But administrative control is not necessarily subjected to these influences. It is true that in an administrative system which is permeated by partisan policies administrative control may be influenced by improper political considerations. Second, administrative control is exercised by a body of officials who are non-political and professional.

Before we proceed further, we ought to remember two points in regard to administrative control. The relationship that exists between the central and local governments should not be regarded as that which exists between the police and the potential criminal. The legal requirements that a local authority must submit certain schemes to a department for approval is clearly a form of control. But it can also be viewed as a kind of consultation between the two bodies in order to produce the best scheme. Certainly, a great deal depends on how the department exercises its powers. The power to approve a scheme prepared by a local authority may be regarded by the department as an opportunity to assist the authority with its advice. Or the department may consider it as an opportunity to impose its will on the local authority. Generally the department adopts the latter view. It is uncommon among ministers and civil servants to regard local auhorities on a footing of equality. And yet ministers and civil servants have no sweeping powers. Both of them are bound by the wording of the statute. This is an obvious point that requires no emphasis. Further, there is public opinion and party pressure which prevent the minister from exercising his legal powers. This becomes still more obvious when Government majority in the legislature is small.

State supervision of local authorities has three outstanding features. First, supervision may be exercised in two ways, over

particular services or the Government and its officers have a general power of interference in local government affairs. For instance, the Municipal Act, 1956, authorised the Commissioner or any officer of Government "to enter into and inspect or cause any other person to enter into and inspect any immovable property in the occupation of or any work in progress or any institution under the control and administration of the board and call for and inspect any book or document which may be for the purpose of this Act, in the possession of or under the control of the board." This is a typical provision found not only in the Municipal Act but in all other local Acts.

Second the degree of supervision varies widely as between the services. Public works and education were supervised more effectively than public health. However, the degree of departmental supervision is rarely quite the same as the wording of the Act suggests. The Act may bestow on the local authorities wide discretion but it may be subject to important administrative checks. Third, a high degree of initiative may be coupled with extensive control. For instance, the Acts endow the local authorities with wide discretion in regard to supply of water and drainage. At the same time they are subject to detailed control when the local authorities approach Government for a loan. Again, in regard to the construction of roads and buildings local authorities enjoy complete freedom as to when and where they should be constructed but the local authorities have to conform rigidly to the standards laid down by the P.W.D. From this we should not come to the conclusion that local authorities are the agents of government. Let us now consider the means by which the local authorities are controlled.

Administrative Areas: Under all the local Acts government was the ultimate authority to determine the administrative area of the local authorities, both urban and rural . Under the Municipal Act, 1864, Government had power to determine, alter or limit the administrative area of the municipal board. It could also unite any area contiguous to an existing municipal board. Under the Municipal Act, 1868, Government could define the limits of a Union. Under the Municipal Act, 1884, it could alter the area of any municipal board or create a municipal board in any area. It is true that this power was not an unlimited one. It was subject to several limitations which had already been noted

in chapter VI. The Municipal Acts 1923, and 1956 endowed the government with similar powers. To sum up Government can constitute any town into a municipality, include or exclude from it any area and above all abolish an existing municipal board.

Under the Local Rates Regulations 1879, and the Local Boards Act, 1915, Government had no power to constitute a local board in any area. In the first the district was the administrative area of the district committee and in the second the sub-division was the administrative area of the local board. But under the Local Boards Act, 1953, Government could establish a local board in a sub-division or in a part of the sub-division. Similarly, under the Panchayat Act, 1959, Government can constitute any area into an anchalik panchayat. But it has no such power so far as Mohkuma Parishad is concerned.

As regards panchayats government had always unlimited power to constitute any village into a panchayat or to alter the area of any panchayat. Thus Government has life and death power over the local authorities. It can create a new local authority. As it can create it can abolish an existing local authority.

Agency Functions: The local authortiies are the agents of Government for certain purposes. When a local authority acts as the agent of Government it is subject to direction and control of the higher authorities. The local authorities have some discretion in the exercise of the agency powers but government does not lose its powers of control.

The Municipal Act, 1850 and 1864 did not authorise Government to entrust any agency functions to municipal boards. But under the Municipal Acts, 1876, and 1884, Government could with the consent of the board transfer the management of a public ferry toll bars on any road or bridge under the Municipal Acts, 1923, and 1956, the management of any hospital or dispensary, schools, resthouse, ghat or market to its control.

Under the Local Boards Act, 1915, and 1953, Government could with its consent transfer any road, bridge, tank building public or charitable dispensery or hospital within the sub-division to the control of the local board.

Under the Panchayat Act, 1926, Government could transfer to

any 'qualified village authority' the management protection and maintenance of village forests the management of any institution, the execution of any work or the performance of any duty.

Under the Panchayat Act, 1948, a primary panchayat might act as the agent of the rural panchayat and carry out its instructions. Under the Panchayat Act, 1959, Government may entrust any function to gaon panchayats or anchalik panchayats.

Appeals: Government has power to hear appeals from the aggrieved local authorities or individuals.[1]

Appointment of Members: Under the Municipal Act, 1850, and 1864 Government could appoint the magistrate and such number of members as appeared necessary to be members of the board and fill up the vacancies by nomination. But under the Municipal Act, 1876, it had no such unlimited power. It had power to appoint not more than one-fourth of the sanctioned strength of the municipal board. Under the Municipal Act, 1884, Government could appoint one-third of the total strength of the municipal board, fill up the vacancies by nomination provided the electorate failed to elect the required number of members. The Municipal Act, 1923, further curtailed the power of Government to appoint members. It could appoint not more

[1] Under the Municipal Act, 1884, members of the municipal boards removed from office by the Commissioner could prefer an appeal to Government.

A local authority could order the closure of any school or market to prevent the spread of a communicable disease. Any owner of the market or manager of a school if dissatisfied with the order could prefer an appeal to the Deputy Commissioner. If the Deputy Commissioner was the chairman of the local authority an appeal could be taken to the Commissioner whose decision was final.

If a municipal board was not satisfied with the decision given by the Deputy Commissioner in a dispute between two local authorities the aggrieved party could appeal to the Commsisioner. If it was not satisfied with his decision he could prefer a second appeal to Government.

Appeals can be taken to Government by persons who have been removed or dismissed by the chairman.

A person aggrieved by an order of the board suspending or refusing a licence for running a cinema or for the performance of drama or a circus can appeal to Government whose decision is final.

Under the Assam Local Rates Regulations 1879, a person aggrieved of the assessment fixed by an officer could appeal to the Chief Commission whose decision was final.

than one-fifth of the total strength as members. It had also power to appoint all the members of a municipal board constituted after 1923 or of the municipal Board which was constituted after a period of supersession. Further, it could fill up all vacancies by nomination if the electorate failed to elect the required number of candidates. At present Government can appoint only two members to represent the Scheduled Castes and the Scheduled Tribes and other socially and educationally backward classes. It can appoint officers of Government as expert advisers. They are supernumerary members with the right to participate in the deliberations but without the right to vote. Government may appoint all the members of the newly constitued boards, and the Commissioner can fill up all the vacancies by nomination if the electorate fails to elect the required number of members even at a second election.

Under the Assam Local Rates Regulations 1879, all the members of the district committee and of the Local Boards were appointed by the Chief Commissioner. Under the Local Boards Act, 1915, the Commissioner could appoint certain proportion of the members of the local board. But under the Local Boards Act, 1953, Government had power to appoint not more than two members to represent the unrepresented interests. Under both the Acts, Government had power to fill up vacancies by nomination if the electorate failed to elect the required number of members.

Under some of the Panchayat Acts Government had power to appoint members.

Audit: All the local Acts except Municipal Acts, 1850 and 1864, specifically laid down that accounts "shall be audited each year by such persons and in such manner as the Lt. Governor shall direct". State audit of the accounts of the local authorities was carried out by the Examiner of Local Fund Accounts. The audit covered all accounts of the local authority. The main function of the auditor was to disallow every item of expenditure which was contrary to law to surcharge the person responsible for incurring or authorising the expenditure.

The powers and duties of the district auditor were clearly wide. He was concerned not only with such matters as embezzlement and defalcations but also with the legality of expenditure. That is, so long as the local authority exercised its powers accord-

ing to law there was no interference by him. If in the exercise of its powers it incurred expenditure beyond the legal limits it might be disallowed by the auditor and the member concerned might be surcharged. Thus the function of the auditor was to restrain expenditure within the proper limits. His mission was and continues to be to enquire if there is any excess over what is reasonable. So the auditor is the guardian of the rate-payers against local authorities acting unreasonably.

Today, the auditor occupies a strong position in relation to local authorities. It is true that the position occupied by the Examiner of Local Funds Accounts is not the same as that of the auditor in England. There the auditor can conduct a reaudit but the Examiner has no such power.

Further, the auditor exercises his powers independently of the Finance Minister. At the same time it may be noted that the powers possessed by the auditor are of a negative character. He cannot compel a local authority to incur an expenditure. If a local authority fails to incur the expenditure and has spent too little on statutory duties, the power of surcharge is of no avail. The auditor can only frighten a local authority from incurring an excess expenditure. He may invite its attention to many things which he has found not to his liking but they cannot be the basis of surcharge. The value of his criticism lies in this that it gives publicity to irregular expenditures and induces the public to be vigilant and critical.

Borrowing : The local authorities can float loans but subject to several conditions. They have no complete freedom to float loans in open market without the permission of Government.

Budget : The local authorities have no complete freedom to frame their budgets as they like. Under the Municipal Act, 1850, the municipal boards were not required to submit their budgets to Government for its approval. But under the Municipal Act, 1864, the municipal board had to submit an estimate of expendtiure and income to Government. Under the Municipal Act, 1876, it was obligatory on the part of the chairman to submit the budget estimate and the revised budget estimate to the Commissioner through the Deputy Commissioner. The Commissioner either sanctioned the budget or submitted it to the Chief Commissioner for his sanction. The Chief Commissioner either sanctioned the budget without making any alterations or sanctioned

it wih such alterations he thoughts fit or returned it to the municipal board for necessary modifications. The modifications suggested by the Chief Commissioner had to be carried out and the budget estimate as modified had to be resubmitted to the Commissioner for his sanction.

Under the Municipal Act, 1884, the budget estimate had to be submitted to the Deputy Commissioner who could return it for modifications. If the board was not prepared to accept the changes suggested by him, it had to give reasons. The final authority to approve the budget was the Commissioner. The same procedure was prescribed by the Municipal Acts 1923 and 1956 but the authority to approve the budget was Government.

As regards local boards, the budget estimate and the revised budget estimate had to be submitted to the Deputy Commissioner who could return it to the board together with his objections. The board was not bound to accept the modifications suggested by him. The final authority to approve the budget was the Commissioner under the Act of 1915, and Government under the Act of 1953. Government could approve the budget as submitted by the board, make such alterations as it thought fit, or return it to the local board for alterations. After alterations had been made the budget had to be resubmitted to Govenrment. But Government had no power to increase the estimates of expenditure without the consent of the board. Further, the budget estimate had to be approved by Government before the end of the financial year. Otherwise it would come into force automatically. At present the anchalik panchayat has to submit its budget to the Mohkuma Parishad whose decision is final.

As regards panchayats, they had to submit their budget to the local boards until 1926. Since then they had to submit it to the Deputy Commissioner. At present it must be submitted to the anchalik panchayat whose decision is final.

Bye-Laws: The initiative for the making of bye-laws has to be taken by the local authority concerned. Under the Municipal Acts 1850 and 1864, the municipal boards had power to frame bye-laws. But no bye-law could come into force without the approval of Government. A similar provision was made in all the Local Acts.

We have to make a distinction between bye-laws and standing rules. Before framing a bye-law a notice informing the public

had to be given. But in the case of standing rules no such notice is necessary. There is another difference between bye-laws and standing rules. The standing rules are intended to regulate the conduct of the meetings of the local authority and its committees and such other things. They do not impose any obligation or confer any right on any person other than the members the officers and the employees of the local authority. Bye-laws on the other-hand are of a very different nature. It is a form of delegated legislation. Why is this power conferred on the local authorities and what are the advantages resulting from it? There are a number of peculiar local needs and special local conditions which can be much better dealt with locally than by the legislature acting for the whole state.

Bye-laws are binding on everybody including Government and they are enforced through the courts of law by the imposition of some penalty. They are a part of the criminal law. But this power is subject to certain limitations. *First*, a notice of the bye-law must be published. *Second*, the approval of Government must be obtained. *Third*, the local authority has no inherent right to frame the subjects enumerated in the Act. Finally, the bye-law must not be inconsistent with the Act. These limitations are true of all forms of subordinate legislation. In other words, subordinate legislation must be intra-vires. That is, it must fall within the powers conferred by legislation.

Certain formalities have to be observed for the making of bye-laws. There should first be a formal resolution of the board on the subject. Second it has to be submitted to the Minister concerned for confirmation. The purpose of this provision is to give Government an opportunity to see whether there is anything in the bye-laws that offends the existing law or the general policy of government. If a bye-law is not confirmed by the minister it means that it is invalid.

A bye-law must have certain characteristics. *First*, it must be intelligible so that the people may understand what is enjoined or prohibited. *Second*, it must not be repugnant to the statute law. This means that it must not positively conflict with the general law. The whole theory of a bye-law is that it supplements the general law carrying it forward on various points of detail and does not purport to alter its general requirements. *Third*, it must be reasonable. But the meaning here is that in

the last resort it is for a court of law to give a ruling whether a bye-law is reasonable. Yet the validity of a bye-law may be challenged and the judge may consider it as unreasonable and therefore may declare it as ultravires. It is true that a single person sitting as a judge ought not to be permitted to substitute his opinion for the opinion of a body of elected members. The only justification that can be made for this is that there ought to be some check to see that the public are not subjected to unreasonable laws.

If a bye-law satisfies all these requirements, then it is a valid piece of legislation and it is binding not only on citizens but also on the local authority.

If we take the bye-laws passed by all the local authorities on any particular subject and compare them with one another we find no variation in their content. The explanation for this uniformity lies in the fact that Government has used its power of approval in such a way that a large measure of uniformity is secured. As a matter of fact Government departments themselves have drafted model bye-laws on a number of subjects. They have been printed and published in the official gazette. So when a local authority is considering the making of a bye-law on a particular subject it simply adopts the model bye-law concerned. If there is no published model bye-law it makes enquiries of the Minister. The Minister knows what other local authorities have done on a similar subject. The local authority gets a reply which is helpful.

Chairmanship: The appointment, the removal and the resignation of chairmen of local authorities had been controlled by Government. Under the Municipals Act, 1850 and 1864, the Deputy Commissioner was the ex-officio chairman of the municipal board. Under the Municipal Act, 1876, government could appoint any person, official or non-official to be the chairman. The vice-chairman had to be elected but the election was subject to the approval of Government. Again, with the sanction of Government, the members could elect permanently or for a term of years a salaried vice-chairman. Under the Municipal Act, 1884, Government had power to appoint a chairman or the board could request Government to appoint a chairman. Under the Municipal Act 1923, Government had power to appoint the chairman of the Shillong Municipal Board alone. But a person

elected as chairman had to seek the approval of Government. Further, the board could request Government to appoint a chairman. Under the Municipal Act, 1956, Government had power to appoint the chairman of the Shillong and Tinsukia Municipal boards. At present it has power to appoint a chairman or vice-chairman only when a board has failed to elect a chairman or vice-chairman or when both the offices are vacant for any reason.

Under the Local Rates Regulations, 1879, the Deputy Commissioner was the ex-officio chairman of the local board. Under the Local Boards Act, 1915, the Chief Commissioner could appoint the chairman of a local board. Under the Local Boards Act, 1953, Government could appoint a chairman only when the local board failed to elect one. At present Government has no such power so far as the rural boards are concerned.

Government had not only the power to appoint a chairman but also the power to remove him from office subject to certain limitations. Under the Municipal Act. 1884, it could remove a chairman appointed by it. In other words, it had no power to remove a chairman or vice-chairman elected by the board. Although the board alone was authorised to remove a chairman it had to obtain the approval of Government for the exercise of this power. So under appropriate circumstances, Government could refuse to give its consent to the removal of a chairman by the board. At present Government can remove any chairman or vice-chairman, elected or nominated if he persistently omits or refuses to carry out or disobeys the provisions of the Act or becomes insolvent or if he is convicted of a criminal offence.

Provision was not made in the Local Rates Regulations, 1879 for the removal of a chairman of a local board. But all other Acts provided for it. At present the Government may suspend a president.

The chairman of a local authority could resign the chairmanship. However, the Municipal chairman had to submit his resignation to Government under the Municipal Act, 1884 and to the Commissioner under the Act of 1923. At present, an appointed chairman has to submit his resignation to Government through the Commissioner and an elected chairman to the District Magistrate and the Commissioner.

The strength of the Local Authorities: Under all the local

Acts, the strength of the local authorities was determined by Government. It had not only the power to fix the strength of a local authority but also to distribute seats among the various communities and determine the number of seats to be elective and appointive, the strength of the official element and the qualifications of members. Thus the entire composition of the local authorities was determined by Government.

Default Power: At first Government was not endowed with this power. It was provided for the first time in the Municipal Act, 1876. In case the Municipal Board failed to protect the health of its inhabitants, Government could direct the board to take necessary action. If the municipal board defaulted to take action indicated by Goverment it could appoint one of its officers to perform the same and recover the expenses from it. Again, if a municipal board failed to pay for municipal police or failed to maintain within its limits any road, which without its limits, was maintained by a local board, or failed to maintain it in good condition or failed to make adequate and suitable provision for the cleaning and conservancy of its areas, the Commissioner could appoint a committee consisting of the Deputy Commissioner the Executive Engineer the Civil Surgeon and two members nominated by him and another by the municipal board to enquire and report. After the receipt of a report from the committee, Government could direct the board to carry out its recommendations. If the board defaulted to comply with its directions, Government could direct the Deputy Comissioner to give effect to the recommendations of the committee. Here the default power possessed by Government was a limited one. It could exercise this power only in regard to a particular matter and that too after observing the procedure prescribed in the Act, But under the Municipal Act, 1884, Government could exercise this power in regard to any matter. This Act is more explicit and more precise than its predecessor. If at any time the Municipal Board defaulted in the performances of any of its duties, Government could fix the time within which it should be performed. If the board did not carry out the orders Government could authorise the Deputy Commissioner to execute the work and recover the expenses from the board.

The Municipal Acts 1923, and 1956, went still further, when they authorised the Deputy Commissioner to call upon any

municipal board to execute any work which it was competent to execute in case of an emergency. If the board fails to comply with his orders the Deputy Commissioner could appoint some one to execute the work and recover the expenses from it. In any case the Deputy Commissioner had to report to Government the circumstances in which he was compelled to exercise the default power.

Under the Municipal Act, 1884, Government could direct the municipal board whose accounts were in confusion to submit accounts duly adjusted. If it failed to comply with the order within the prescribed period, Government could appoint a special officer to adjust the accounts and recover his emoluments from the board. This provision was not made in the subsequent Acts.

As regards local boards, the Commissioner was endowed with this power. Under the Local Boards Act, 1953, and the Panchayat Act, 1959, the Commissioner could direct a local authority to do its duty which it defaulted in performing and prescribe the period within which it ought to be performed. If the local board still failed to carry out the orders of the Commissioner, he could appoint some one to execute the work and recover the expenses from it.

Disputes: The local Acts have provided for the settlement of disputes. Disputes may be of two kinds, disputes between two or more local authorities, or between a local authority and one of its officers and disputes between a local authority and a private person. This provision was first made in the Municipal Act, 1894. Any dispute between two municipal boards, between a municipal board and a local board and cantonment authority had to be referred to the Deputy Commissioner if the contending parties were within the same district to the Commissioner if they were in different districts and to Government if they were in different divisions and the Commissioners concerned could not agree with one another. The decision of the authority was final. A similar provision was made in all other Municipal Acts.

Under the existing Municipal Act, the Director of Public Health may direct a municipal board to take such measures as are necessary for improving the public health administration in the area. If a difference of opinion arises between the Director and the Municipal Board as to the measures to be taken, the matter must be referred to Government whose decision is final.

The Local Rates Regulation, 1879, did not provide for the settlement of disputes. Under the Local Boards Acts, 1915 and 1953, all disputes had to be referred to the Deputy Commissioner whose decision was final.

Under the Panchayat Act 1959, all disputes between the Anchalik Panchayat and the Mohkuma Parishad ought to be referred to Government whose decision is final.

Elections: The election of members of the local authorities was controlled to a great extent by Government or its agents. It prescribed the procedure for the election of members. It laid down the qualifications of the electors and of the candidates. It determined where and when the elective system ought to be introduced. Its officers conducted the election of members of the Local Boards.

Emergency Powers: The Local Rates Regulations, 1879, did not endow the Government with emergency powers. But under the Local Boards Act, 1915, if the Deputy Commissioner was of opinion that the immediate execution of any work was necessary for the safety of the public he could appoint some fit and proper person to execute the work. But the Local Boards Act, 1953, did not endow the Deputy Commissioner with such an unlimited power. The words "and the board fails to execute or do it without any reasonable excuse" which are not be found in the Local Boards Act, 1915, are significant. Impliedly, it meant that the Deputy Commissioner was first to direct the local board to take action. In the event of failure on the part of the board to comply with his direction the Deputy Commissioner could proceed with the execution of the work. The Municipal Acts did not endow the Deputy Commissioner with an unlimited power inregard to this matter. Under the Municipal Act, 1923, the Deputy Commissioner whenever an emergency arose was at first to call upon the board to execute the work within the time prescribed by him. If the board failed to carry out his orders he could appoint some one to execute the work. A similar provision is made in the Municipal Act, 1956. But whenever the Deputy Commissioner exercised his emergency powers he had to inform the Commissioner together with reasons, who either confirmed the action of the Deputy Commissioner or modified it. The Commissioner had to send a copy of his orders to Government.

Control of Expenditure: The Local Acts impose several

restrictions on the local authorities in regard to expenditures. The Municipal Act, 1884, laid down the rates at which travelling allowance was to be paid to municipal officers. It prohibited a municipal board from making a contribution to another local authority without the consent of Government. The municipal Acts 1923 and 1956, laid down that leave, allowances, pension or gratuity granted to any municipal employee ought not to be more favourable than those prescribed by Government for its servants of similar grade. Government may direct a gaon pan chayat to spend a specified share of the net receipts of the local rate for any purpose specified by it.

Grant-in-Aid: Grant-in-aid is another means by which Government controls local authorities. Government may refuse to pay a grant and the refusal may take three forms. A local authority may provide a service but not to the satisfaction of Government and therefore it may refuse to pay either a part or the whole of the grant until it is satisfied. If the grant is paid for a part of the work approved by Government, it may after scrutinising the scheme prepared by the local authority refuse to pay the amount. If the grant is a percentage grant, Government may refuse to recognize particular items of the proposed expenditures. A refusal of grant-in-aid bring the local authority to its knees. A local authority might have already provided a service and its inability to continue the service may make it unpopular in the eyes of the people. Necessarily it is compelled to toe line marked out by Government or if Government considers that the fund earmarked for the promotion of education was misused it may call upon the local authority to explain and if the explanation is not satisfactory, Government could make such modifications in the grant payable to the local authority, as it thinks proper.

Investments: All the local Acts insist that the municipal funds ought to be deposited with the Government Treasury The surplus money, if any, ought to be invested in securities approved by Government. If a local authority desires to invest its surplus funds in any private bank it has to obtain the previous permission of Government.

Inspection: The characteristic bond between the State and local government is inspection. Although there are other methods of control, inspection is unquestionably the most effec-

tive device for the purpose. The Inspectors may be classified into two, inspectors who work in a well defined geopraphical area and are concerned with a particular branch of local government and inspectors who are sent to a place to investigate a particular problem.

Doubts concerning the wisdom and the necessity of Governmental supervision over the activities of local authorities exist in the minds of some. They argue that state supervision might have been necessary in the 19th century and in the early part of the present century. But at present there is no such necessity. There are, however, a number of convincing reasons for the existence of state inspection over the activities of the local authorities. *First,* one of the major purposes of central control is to secure the efficient administration of certain services. It is obvious that some local authorities will always be more progressve than others. But in some areas conservatism may continue to exert powerful influence. How to secure the efficient administration of certtain services? The only way is by inspection.

Seoond, state supervision tries to eliminate the confusion resulting from the existence of diversities in the administration of certain services. For exapmle, if public health activities are not regulated by uniform rules epidemics can not be controlled. It would be extremely difficult to enforce uniform regulations without inspection.

Third, since the local authorities are authorised to levy rates for the purpose of financing a variety of the services, it is the duty of Government to see that the money is well spent.

Fourth, selfish and powerful interests within the local authority may seek their own advantage to the detriment of the community as a whole. The interests of the majority have to be protected.

Fifth, central control provides opportunities for the pooling of experience. Since the inspectors are the ears and eyes of Government, they have experience and knowledge. The knowledge of local authorities is comparatively limited. This is due to the relatively small size of the areas which they control. Further, the elected members seldom have a very long and continuous connection with local administration.

Sixth, there is a general reluctance to levy taxes. If local

authorities are left alone they would not levy taxes to provide necessary funds for the administration of the essential services.

Seventh, the resources of many a local authority are not sufficient to finance their services. So they have to depend upon Government grants. There must be somebody to see that grants are well spent.

Finally, State inspection has become imperative with the inauguration of democratic decentralization. Without effective supervision local administration is likely to crumble down.

If inspection is to be effective the jurisdiction of each inspector ought to be such that will involve minimum travelling. The frequency of inspection is another important factor if the purpose of inspection is to be served. The annual visits are not enough. There ought to be surprise visits also. If inspection is conducted with greater frequency local administration will be efficient. The inspectorate must have sufficient amount of free dom to exercise its discretion. Further it must not be burdened with heavy administrative work and thereby prevent it from carrying out its more important responsibilities of advice and guidance.

Another means necessary for the existence of an efficient system of inspection is the legal means available for securing information from the local authorities. Any attempt to supervise local services by means of inspection without legal authority to compel the supply of information would be doomed to failure from the start. Experience has proved that local authorities cannot be depended upon to make available documents and records voluntarily. It is not conceivable that intelligent supervision and oversight can be exercised unless Government possesses detailed information and statistical data concerning local government activity.

Statutory provision for the inspection of the municipal boards was made for the first time in the Municipal Act, 1884. The previous Acts did not provide for this because the Deputy Commissioner was the chairman of the municipal and local boards in the district. Under this Act, the Deputy Commissioner could inspect any immovable property of the local authority. He could call for reports and inspect any document. A similar provision was made in the Municipal Act, 1923, which also provided for the

appointment of an officer of Government to be the Inspector of municipal works for one or more municipal boards. The Inspector could inspect and report to the Deputy Commissioner.

The District Medical Officer had to inspect the municipalities twice a year. A report of his inspection had to be sent to the board and the board had to submit a report of the action taken to Government through the Director of Public Health.

The general inspection of the municipal board had to be done by the Commissioner.

Under the Local Boards Act, 1915, not only the Chief Commissioner and the Deputy Commissioner could inspect any work in progress any institution of the local board but also appoint an officer of Government to be the Inspector of Local Boards. The rules framed under the Act authorised the Commissioner and the Deputy Commissioner to make general supervision, the Director of Public Instruction and his subordinates the inspection of the educational institutions, the Chief Engineer, the Superintending Engineer and the Inspector of Works, public works, the Inspector of Civil Hospitals and the Civil Surgeon the inspection of the medical institutions, the Sanitary Commissioner sanitary administration, and the Controller, the Deputy Controller and the Examiner of Local Fund Accounts, the audit of local fund accounts. A similar provision was made under the Local Boards Act, 1953. This arrangement continued to exist until the aboli tion of the local boards in 1960.

Prior to 1964, the Commissioner was supposed to coordinate the activities of the various departments. Further he and the Deputy Commissioner were endowed with the general power of inspection, supervision and control of the panchayats both gaon and anchalik. The Director of Panchayats had all the powers of the Development Commissioner. He could annul any proceedings of the Mohkuma Parishad which was not in conformity with law and do all things necessary to secure such conformity. The Joint Director and the Assistant Development Commissioner and the Deputy Directors of the Development Department supervised the gaon and anchalik panchayats. The Deputy Commissioner supervised the Mohkuma Parishad, Anchalik Panchayat and Gaon Panchayats. All the project executive officers, the Development Officers, and the Assistant Development Officer and the Sub-Divisional Planning Officer

supervised the gaon panchayats. The Additional Deputy Commissioner inspected the gaon panchayats and anchalik panchayats and Mohkuma Parishads.

This administrative arrangement did not work satisfactorily. The Development Commissioner was also Secretary of the Planning and Development Department and therefore could not command the willing cooperation of the Secretaries to Government in the Departments of Agriculture Veterinary and Animal Husbandry and Cooperative Societies with which his work was intimately connected. So Governmen thought that Development Secretary should have the legal authority to command the services of the Secretaries of the Departments of Cooperation, Veterinary and Animal Husbandry and Agriculture. Therefore, he has been appointed as Special Secretary and Commissioner of Agricultural Production and Rural Development. The Special Secretary coordinates the activities of the departments with which he is concerned. In regard to policy matters, connected with agricultural production, his opinion carries considerable weight.

Below the Special Secretary, there is the Secretary, Panchayat and Community Development. The Director of Panchayats is the head of the Panchayat Department. He is also known as the Deputy Development Commissioner. He is responsible to the Commissioner Community Development for all his executive acts.

The Director is assisted by a number of officers at the state headquarters and also in the field. At the State headquarters. there is one joint Director, an Assistant Development Commissioner in charge of community development programmes, another Assistant Development Commissioner to look after rural works. A Deputy Director to look after the training programme, one lady designated as the Special Officer, Women and Children Programme, another Special Officer to deal with the framing of rules and bye-laws, and an Accounts Officer to look after the financial administration. The Accounts Officer is assisted by three Assistant Accounts Officers, one to look after internal audit of the panchayats, internal inspection and planning, the second to look after the budget estimates and the third to look after the training of the accounts officers.

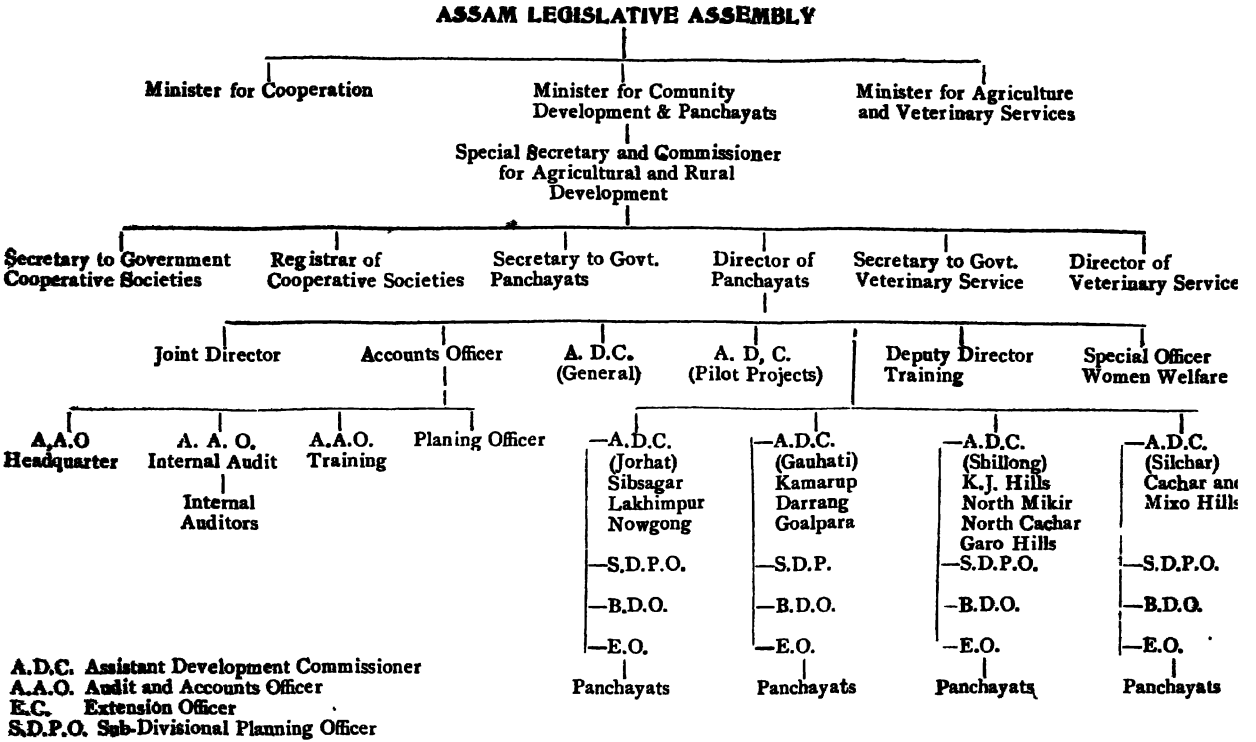
Below the Director of Panchayats, there are four Assist-

ants Development Commissioners, one at Jorhat, the second at Gauhati, the third at Shillong and the fourth at Silchar. The function of the Assistant Development Commissioner is the inspection of the Anchalik Panchayats and panchayats within his jurisdiction and supervise the work of the Block Development Officer. However, he has no powers of control over the Block Development Officer He does not maintain his confidential record. He does not control the Sub-Divisional Planning Officer. Nor has he the power to inspect the Mohkuma Parishad.

At the headquarters of each sub-division, there is the Sub-Divisional Planning Officer who is also the Secretary of the Mohkuma Parishad. Although his main work is the execution of the resolutions of the Parishad, he has been entrusted with the inspection of Panchayats within his jurisdiction. He must assist the Deputy Commissioner and the Sub-Divisional Officer in the inspection of Anchalik and Gaon Panchayats. In practice, however, he finds no time to carry out all these functions because he is tied to his work as Secretary of the Mohkuma Parishad.

At the block level, there is the Block Development Officer. He is assisted by Extension Officers. There are extension officers for various services such as agriculture, veterinary and animal husbandry panchayats, social education in addition to Assistant Cooperative Officer, overseer and medical officers, gram sevaks and gram sevikas. Except the extension officer (Panchayats) and the Gram Sevaks and Gram Sevikas, all others are under the control of their respective departments.

The Extension Officer, Panchayats must supervise the panchayats within his jurisdiction. The administrative machinery for the inspection of Panchayats and Mohkuma Parishads is as follows.


ASSAM LEGISLATIVE ASSEMBLY
Minister for Cooperation
Minister for Comunity Development & Panchayats
Minister for Agriculture and Veterinary Services
Special Secretary and Commissioner for Agricultural and Rural Development
Secretary to Government Cooperative Societies
Registrar of Cooperative Societies
Secretary to Govt. Panchayats
Director of Panchayats
Secretary to Govt. Veterinary Service
Director of Veterinary Service
Joint Director
Accounts Officer
A. D.C. (General)
A. D, C. (Pilot Projects)
Deputy Director Training
Special Officer Women Welfare
A.A.O Headquarter
A. A. O. Internal Audit
Internal Auditors
A.A.O. Training
Planing Officer
A.D.C. (Jorhat) Sibsagar Lakhimpur Nowgong
S.D.P.O.
B.D.O.
E.O.
Panchayats
A.D.C. (Gauhati) Kamarup Darrang Goalpara
S.D.P.
B.D.O.
E.O.
Panchayats
A.D.C. (Shillong) K.J. Hills North Mikir North Cachar Garo Hills
S.D.P.O.
B.D.O.
E.O.
Panchayats
A.D.C. (Silchar) Cachar an Mixo Hills
S.D.P.O.
B.D.O.
E.O.
Panchayats
A.D.C. Assistant Development Commissioner
A.A.O. Audit and Accounts Officer
E.C. Extension Officer
S.D.P.O. Sub-Divisional Planning Officer

The inspection of the educational activities of the local authorities was entrusted to the Inspector of Education. In 1871, there was only one Inspector who was assisted by three Deputy Inspectors in the Assam Valley and one in the K & J Hills and one for the districts of Cachar and Sylhet. With the spread of education, the number of Deputy Inspectors increased to nine is 1881. The Deputy Inspector was a subordinate of the Deputy Commissioner in regard to primary education and of the Inspector in regard to secondary education. If the Deputy Commissioner and the Inspector required the services of the Deputy Inspector at one and the same time, the Deputy Commissioner as the officer in more immediate contact with the Deputy Inspector's primary duties would have the first claim. The diaries of the Deputy Inspector had to be submitted to the Inspector through the Deputy Commissioner.

Besides the Deputy Inspector there were Sub-Inspectors who were appointed and promoted by the Chief Commissioner and were under his disciplinary control. With the consent of the Inspector, the Deputy Commissioner could transfer any Deputy Inspector within the limits of his jurisdiction. The Deputy Commissioner ought to communicate on matters connected with primary education with the Sub-Inspector through the Deputy Inspector. Beside the Deputy Inspectors there were 14 Sub-Inspectors. The Deputy Inspector was in charge of a district and the sub-inspector-in-charge of the sub-division. The sub-inspector submitted his diaries to the Deputy Inspector who forwarded them to the Inspector through the Deputy Commissioner.

Schools of all classees were usually inspected once in three months either by the Deputy Inspector or by the sub-inspector. The Deputy Commissioner and the Assistant Commissioner could also inspect schools of all classes while on tour. The members of the school committee also visited schools in the district every month. The Inspector visited all the Zilla schools and most of the middle schools at least once in a year and such primary schools as were within a reasonable distance from the zilla and middle schools. Thus there was effective supervision of the schools maintained by the local authorities. The machinery for the inspection of the schools managed by the local authorities was as follows:

In 1871	In 1882
Chief Commissioner	Chief Commissioner
Inspector of Schools[1]	Inspector of Schools
Deputy Commissioner	Deputy Commissioner
Deputy Inspector of Schools	Sub-Inspector of Schools 1

This arrangement continued till 1905 with slight changes. In 1905, there was a reorganization of the department. Provision was made for the appointment of two Inspectors, 19 Deputy Inspectors and 20 Sub-Inspectors. The post of the inspecting pundits was abolished. The Director of Public Instruction[2] was the head of the department. The Inspector was in-charge of a division, the Deputy Inspector-in-charge of Local Board area and the Sub-Inspectors assisted the Deputy Inspectors in areas where there were many schools. The Hill districts were placed under the general control of the Inspector of the Assam Valley. The Khasi and Jaintia Hills were under two Khasi Sub-Inspectors and the Garo Hills under a Deputy Inspector. The Deputy Inspectors had to serve two masters, the Director of Public Instruction and the chairman of the local board. He was the Chief Executive Officer of the education department in the district. He was primarily responsible for inspection of primary and middle schools, at least once in a year. In the course of years the inspection machinery developed and became complex. In 1964 it was as follows: (vide page 470).

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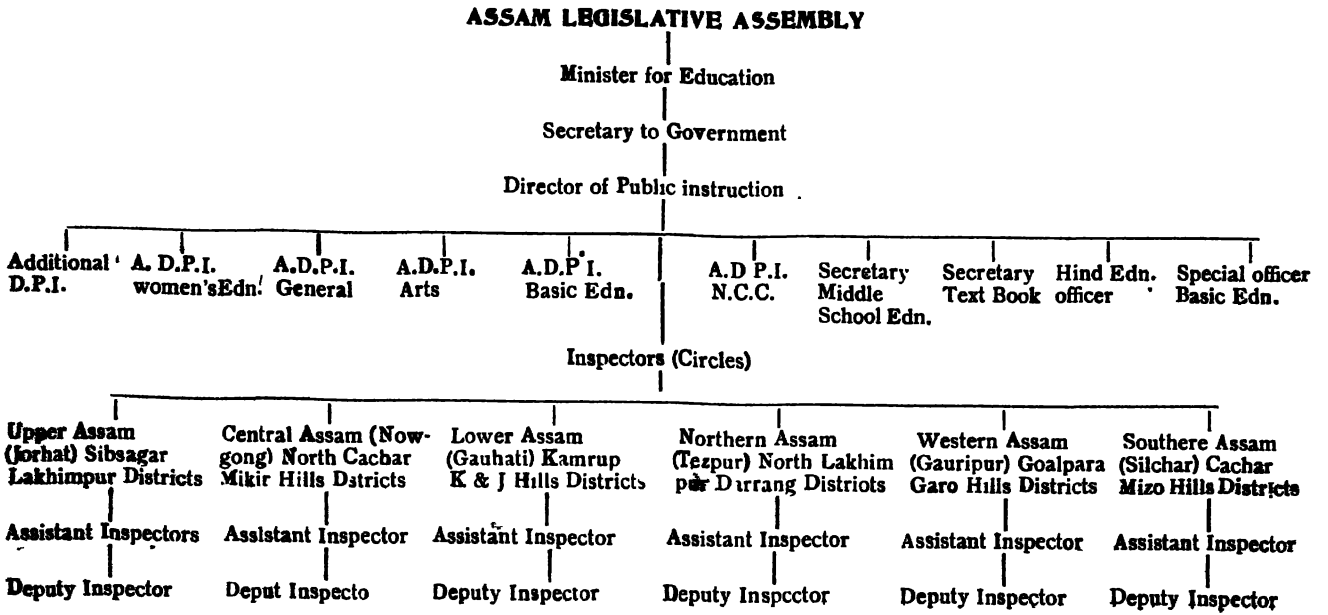
[1] Letter No. 1434 of 21-7-1881 from the Inspector.
Letter No. 515 of 31-8-1876 from the Inspector.
Letter No. 3212 of 13-10-1888 from the Inspector.
Letter No. 5778 Judl. 31-10-1888 from the Chief Commissioner.
Letter No. 88 Home 6-1-1889 Government of India.

[2] In 1876, the Inspector suggested that the designation of the head of the education department might be changed to 'Director.' The argument advanced in favour of the change was that the Inspector was authorised to exercise the powers of the Director and that he actually exercised these powers. Therefore, it was anomalous that that



D.P.I.—Director of Public Instruction.

A.D.P.I. Assistant Director of Public Instruction,

The machinery provided for the inspection of the sanitary activities of the local authorities was not effective. There was no Sanitary Commissioner. The Chief Commissioner was the Sanitary Commissioner of Assam. For the effective supervision of sanitary administration, the Government of India suggested two courses of action. Either an officer might be appointed to look after sanitary administration and labour or the Deputy Surgeon General of the Decca Circle might be appointed to be also the Sanitary Commissioner of Assam in addition to his other duties. The Chief Commissioner, however, pointed out that neither of the courses suggested by the Government of India would produce desirable results. Of the two, however, he preferred the latter. At the same time he rejected the proposal that the Inspector of Labour might be the Sanitary Commissioner without assigning any reason. Then the Government of India suggested the appointment of a medical officer of some standing to be the Sanitary Commissioner and Inspector of Labour. But as the Government of India, was not in a position to meet the extra cost which the proposal would involve, it was decided that the Deputy Surgeon General, Decca Circle would be the ex-officio Sanitary Commissioner of Assam. In 1886, a sanitary board was established to look after sanitary administration.[3] At present the

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an officer exercising the powers of the Director should be designated as Inspector. Again, the title Director would increase the influence and usefulness of the officer. Finally, there was a belief that the Inspector was not the final authority in regard to educational matters. The proposal was rejected by the Government of India.

It was again made in 1888 and the Chief Commissioner observed "In this connection it may not be out of place to observe that it seems anomalous that while Hyderabad assigned districts with less than 1,000 schools and 4,400 scholars are allowed a Director of Public Instruction, a similar appointment should be denied to Assam with nearly 2,500 schools and 75,000 scholars." The Government of India accepted the suggestion subject to the condition that except in regard to the increased rate of travelling allowance admissible under the code no additional expenditure should be permitted in consequence of this change."

[3] Letter No. 427 Simla 21-10-1876.
Letter No. 1143 Fort William 15-12-1875.

administrative machinery for the control of public health and medical is as follows:

Minister for Medical
|
Secretary-Medical
|
Director of Public Health
|
Deputy Director Gauhati | Deputy Director Medical | Deputy Director Health | Deputy Director Jorhat
|
District Medical Officer
|
Civil Surgeon
|
Anchalik Panchayat
|
Gaon Panchayat

In Andhra and Madras States there are two departments for the control of public health activities of the local authorities. In Assam as in Britain and other western countries there is only one department for the purpose. Is it necessary to have separate departments for medical relief and sanitation? In 1897, the Government of India suggested the amalgamation of both the Departments and constitute a single department with the Surgeon General as the Head of the Department. The proposal was opposed on several grounds, that one man would not be able to carry on the burden of both the departments ; that conflict between the Sanitary Commissioner and the Surgeon General was inherent in the arrangement; that sanitary administration required a different kind of training which was not ordinarily possessed by the medical man and that the maintenance of two departments for medical relief and preventive medicine was an advance upon the English system. How far these arguments are valid ?

The creation of these two departments for one and the same purpose working in water tight compartments is peculiar to Madras. It does not exist in Assam, in the Dominions nor in the

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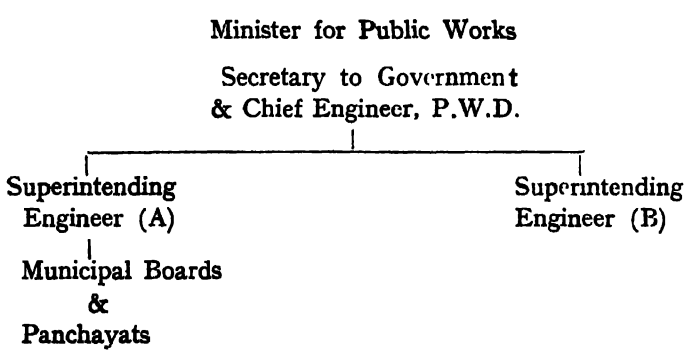
[3] Letter No. 670 Shillong 4-8-1876.
Letter No. 181 Simla Home 10-7-1876.
Home No. 1-2 April 1876. Shillong.

Colonies. The existence of two departments is not conducive to the efficient administration of public health. So long as the sanitary department limited its activities to environmental hygiene there was no difficulty. But as soon as it proceeded to interest itself in individual than in communities, overlapping began to appear. This has been most marked in the filed of maternity and child welfare and rural medical relief. Further, there is sufficient evidence to show that there was lack of cooperation between the two departments. So the present arrangement for the administration of public health in Assam is better than the one that exists in Madras.

The administrative machinery devised for the control of public works of the local authorities is as follows:



The Chief Engineer accords technical sanction to the estimates for sums above the power of the Superintending Engineer which is now Rs. 4 lakhs and above. The Superintending Engineer is the authority to accord technical sanction to schemes whose estimated cost is Rs. 50,000 and above. The Executive Engineer is authorised to accord sanction to works whose estimated value is less than Rs. 50,000. The Chief Engineer and the Superintending Engineer must see that the Executive Engineer exercised the functions and responsibilities as Inspector of Local Works advise him on technical matters and inspect the works which are within the limits of their sanctioning power. The Executive Engineer is the Inspector of Local Works within the jurisdiction of the anchalik panchayat, municipalities and town committees. Formerly, the Public Health Engineer was under

the administrative control of the Chief Engineer. Later on, it was detached and placed under the control of the Director of Public Health. He is of the rank of a Superintending Engineer and is the competent authority to sanction schemes for the supply of protected water and drainage in the local authorities. However, schemes costing Rs. 4 lakhs and more must be submitted to the Chief Engineer for his technical sanction.

Personal Administration : Under the Municipal Acts 1850, and 1864, the Municipal Board had complete freedom to appoint its officers and servants without outside sanction. The Act of 1876 however, laid down certain restrictions. No person should be appointed to an office whose monthly salary was more than Rs. 200 without the approval of the Commissioner. The Municipal Act, 1884, went a step further by lowering the monetary limit. Under this Act, no person was to be appointed or dismissed from office the monthly salary of which was Rs. 100 without the sanction of the Commissioner. The Municipal Act, 1923, went still further and imposed a number of restrictions. The appointment of an officer whose pay was partly or wholly borne by Government ought not to be created or abolished without the sanction of Government. Dismissals of such persons was again subject to confirmation by the Commissioner. Further, Government could direct a municipal board to appoint a health officer and a sanitary inspector or appoint an officer of Government as Health Officer and Sanitary Inspector. At present it may appoint an executive officer or direct the municipal board to appoint one.

Under the Local Rates Regulations, 1879, the Chief Commissioner could order the discharge of any person employed by the District Committee had to be confirmed by the Chief Commissioner. Under the Local Boards Act, 1915, no post whose monthly salary was Rs. 100 ought to be created or abolished without the previous sanction of the Commissioner. Every appointment to such posts and removal therefrom had to be confirmed by the Commissioner.

The Chief Commissioner could direct a local authority to dismiss one or more of the servants in public interest. If the local authority refused to carry out his orders, the latter could issue an order of dismissal.

The post of the engineer or health officer was not to be created or abolished without the approval of Government. The appointment of Engineers and Health Officers and their dismissal or alteration in their pay scales had to be done with the approval of Government. The Local Boards Act, 1953, went a step further and authorised the Government to direct a local board to appoint a health officer or sanitary inspector on such salaries as it might fix or to employ government servants as health officers and sanitary inspectors. A similar provision made in the Panchayat Act, 1959. The Government has the right to appoint the secretaries of Mohkuma Parishad, Anchalik Panchayat, and Panchayats. It has also power to regulate the strength, emoluments and conditions of service of the servants of a local authority. In other words, if the number of persons employed by a gaon panchayat or an anchalik panchayat or if the remuneration paid is excessive, Government may direct the local body concerned to reduce their strength and remuneration.

Removal of Members : Under all the Local Acts, Government had power to remove any member but it was subject to several limitations. For instance, under the Municipal Act, 1876, the recommendation of the board was necessary. Further, the person concerned ought to have been guilty of misconduct in the discharge of his duties or of disgraceful conduct. Under the Municipal Act, 1884, he must have refused to act or became incapable of acting or was declared an insolvent or was convicted for any non-bailable offence or dismissed from Government service or absented himself from six consecutive meetings of the board without obtaining its permission. The Municipal Acts, 1923, 1956, went further and authorised the Commissioner to remove any member who ceased to be an inhabitant of the municipal area, or who acquired an interest in any contract with the board or who as a legal practitioner appeared against the board. Further, Government had power to remove a member if it came to the conclusion that his continuance in office was dangerous to public peace". The members of the local boards also could be removed by Government under similar conditions.

Reporting : Under all the Local Acts, the Boards had to submit an annual report of their activities to Government.

Besides the annual report, they had to submit a number of other reports.

Rule making Power: Rules issued under the Acts are an extension of the statute law. They are a part of the frame work. All local Acts, made provision for the making of rules by government. Under the Local Boards Act, 1915, Government could make rules on 39 subjects and under the Local Boards Act, 1953, on 33 subjects, under the Municipal Act, 1956 on 21 subjects and under the Panchayat Act, 1959 on 43 subjects. The subjects on which Government can make rules are of vital importance such as the maintenance of working balance, the preparation of budget, the qualifications to be possessed by the employees of the local authorities the conditions of service and the conditions under which licences ought to be granted. Through the power to make rules Government exercises tremendous control over the local authorities. It is true that rules framed by the department have to be placed before the legislature. But that is a formal affair.

Power to sanction: The power to sanction or approve has two facets, negative and positive. For instance, a local authority must submit all bye-laws to the Ministry of Local Self-Government for approval. Supposing Government refuses to approve a bye-law the local authority concerned cannot take any action. At the same time the power to sanction provides an opportunity to Government to take positive action. For instance, if a local authority submits a scheme for the construction of a town hall, the ministry may suggest the construction of a drainage scheme instead of a town hall. It must, however, be said that there are obvious limits to the exercise of this power. A local authority with a bad drainage system may not agree to the utilization of its funds for the construction of a drainage scheme and insist on a town hall. If there is opposition to its proposal it may simply drop the proposal. There are also legal limitations to the use of this power. The refusal of the department to sanction may be challenged in a court of law. Apart from legal action there may be political pressure and hostile public opinion. Supposing if a loan is not sanctioned because the local authority has failed to appoint a secretary, Government exposes itself to the criticism that it was guided by extraneous considerations.

Let us consider the statutory prvoisions. Under the Municipal Act 1850, the Municipal Board had complete freedom to enter into any contract. Outside sanction was not necessary. But under the Municipal Act, 1864, the municipal board had to obtain the previous sanction of Government for all contracts involving an expenditure of more than Rs. 1,000. Again, the burial and the burning grounds ought not to be formed or closed without its sanction. Under the Municipal Act, 1876, taxes ought not to be levied without the sanction of Government ; its sanction had to be obtained for the rate at which tolls were to be levied on municipal ferries, roads and bridges and for the establishment of municipal ferries, tolls, markets, burial and burning grounds.

Under the Municipal Act, 1884, a member who had been removed from office could contest elections only with the sanction of Government, the water works schemes had to be submitted to Government through the Commissioner for its sanction ; the sanction of government had to be obtained for the election or removal of chairman and for the payment of allowances to him ; its sanction was necessary to take over the control of any ferry, to establish toll bars on any road or bridge.

Under the Municipal Acts, 1923, and 1956 the sanction of government was necessary to file a suit against a member for the recovery of any loss or waste or misapplication of funds by him for the construction of a railways and tramways and water supply scheme, and for the appointment of an executive officer. Again, a member could interest himself in any contract only with its sanction.

Under all the Local Board Acts, the previous sanction was necessary for the establishment of toll bars, on any bridge or on any part of the road, for the rates at which tolls ought to be levied, and for making contributions to other local authorities. The Panchayat Acts also contain a similar provision.

Supersession : Of all powers of control the power to supersede is a sledge hammer type of power. For nearly three decades provision was not made for the supersession of local authorities. Under the Municipal Act, 1850, Government had power to suspend the operation of the Act at any time in any town and appoint any person to examine and report upon the behaviour of the board or its officers. Government had no power to

supersede or dissolve a board. It had only power to "suspend the operation of the Act" which may mean temporary abolition of the board. This provision was not included in the Municipal Acts of 1864 and 1876. But the Municipal Acts, 1884 and 1923 provided for the supersession of a municipal board which was not competent to perform or persistently defaulted in the performance of its functions or which abused its powers. The consequences of supersession were that all members were turned out of office and the administration of the board was entrusted to a special officer. After the expiry of the period of supersession the board was reconstituted. But both the Acts did not make a distinction between dissolution and supersession. The Municipal Act, 1956, however makes a distinction between supersession and dissolution. So under the present Act Government may either dissolve or supersede a municipal board. When the board is dissolved Government may appoint any person as its chairman to carry on the routine administration on behalf of the board until it is reconstituted. The old board remains until a new one comes into existence. Further, Government has power to extend the period of supersession for a period of one year at at a time.

Under the Local Boards Act, 1915, a local board or a village authority could be superseded by the Chief Commissioner for reasons similar to those under which municipal boards could be superseded. No provision was made for the dissolution of the boards. But the Local Boards Act, 1953, provided for the dissolution or supersession of a board. When the board was dissolved elections had to be held as soon as possible. But the members of the old board did not vacate office automatically. They remained in office until a new board came into being. The chairman of the old board continued to function until a new chairman was elected, by the new board.

As regards Panchayats, under the Local Boards Act, a village authority could be superseded. But under the Panchayat Acts, 1926 and 1948, a panchayat could be dissolved but not supersesed. At present a gaon or anchalik panchayat but not mohkuma parishad may be dissolved. The period of dissolution or supersession ought not to exceed six months.

During the period 1884 to 1960 no local board was superseded. Six municipal boards were superseded for the abuse of

powers vested in them and several panchayats were abolished for administrative reasons.[1]

Suspension of resolutions: The previous Municipal Acts, did not provide for the suspension of resolutions of the local authorities because the Deputy Commissioner was the ex-officio chairman. But in 1884, the necessity for the existence of this provision was felt, because non-officials would be the chairmen of the municipal boards under the new Act. All the subsequent Municipal Acts provided for the suspension of resolutions of the boards by the Deputy Commissioner. Not only had he the power to suspend the resolutions he could also prohibit the doing of any act which would lead to a breach of peace or cause serious

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[1] The six municipal boards that were superseded were the Dibrugarh, Habiganj, Sylhet, Gauhati, Shillong and Karimganj. For nearly a decade commencing from 1920, the Dibrugarh Municipal Board persistently defaulted in the discharge of its statutory duties and proved itself incompetent to function effectively. In 1928, the arrears of tax was Rs. 15,539. In other words the collection of taxes was very poor. Some of the members of the board did not pay taxes and the penal provisions of the Act were not enforced against them. Within a period of six years ending in September, 1927, the board remitted taxes to the tune of Rs. 15,000. There was no reassessment of taxes. The incidence of taxation was very low though the citizens were not less prosperous. The water supply and drainage systems were in a deplorable condition. It is no exaggeration if we say that there was administrative anarchy in Dibrugarh.

The Gauhati municipal board was the sister and companion of the Dibrugarh municipal board in this matter. The demand for the first three quarters of the year 1946-1947 including arrears was Rs. 1,54,962 but the total collection was only Rs. 58,562. The huge arrears amounting to Rs. 96,400 showed that the board did not take effective measures for realization of the heavy outstanding dues. As a result the board failed to provide the primary needs of its citizens. For want of funds, the board could not pay the outstanding bills for the supply of coal to the water works department. The liabilities of the board on January 1, 1947 amounted to Rs. 1,03,058. There was no other alternative to Government but to supersede it.

The other fellow passenger in this compartment was Shillong. The arrears of tax was Rs. 2,42,552 on October 7, 1953. The suprising fact was that the board presided over by the Deputy Commissioner of the K. & J. Hills should have miserably failed to collect the tax amount in due time. Apart from the failure to collect the revenues promptly, it was generous in giving remissions.

injury to the public. When the Deputy Commissioner exercised this power he had to submit a report to Government which could either confirm or rescind his order.

The Local Rates Regulation 1879, did not authorise the Government to exercise this power because the Deputy Commissioner was the ex-officio chairman. Under all the Local Boards Acts; Government or the Deputy Commissioner could suspend the resolution of a local board.

Under the Panchayat Act, 1959, the Deputy Commissioner may suspend or prohibit the execution of any resolution or order of an anchálik panchayat or of a mohkuma parishad.

As regards panchayats, the Registrar of panchayats had the power to suspend a resolution of a panchayat or prohibit the doing of any act which was about to be done or was being done. The Registrar however, had to send a copy of the order to Government together with reasons for the exercise of this power. Government could either confirm or rescind his orders. The subsequent Panchayat Acts made a similar provision.

How this power was exercised? Some of the Deputy Commissioners exercised this power somewhat frequently and sometimes perversely.[2]

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[2] In 1962, the Deputy Commissioner, K. & J. Hills suspended three resolutions of the Shillong Municipal Board. One of the resolutions required the municippal assessor to lay the assessment papers before the board for scrutiny. The second resolution required the municipal officers to accompany the members whenever they visited their constituency. The Legal Remembrancer (Mr. B. N. Rao) was of the view that the resolutions were not ultra vires. But Government upheld the action of the Deputy Commissioner because they did not like to lower his prestige in the eyes of the board. The Deputy Commissioner Sylhet suspended two resolutions of the Sylhet Municipal Board. The Deputy Commissioner, Kamrup suspended the resolution of the Gauhati Municipal Board which authorised the board to collect taxes according to the revised assessment. The Commissioner thought that the revision of assessment under section 67 of the Municipal Act, 1923, was not legal and advised the board not to proceed with the collection of taxes. The board rejected his advice and resolved to proceed with the collection of taxes. The Deputy Commissioner thought that the decision of the board was illegal and suspended the resolution. In 1953, the Sibsagar Municipal Board granted permission for the establishment of two rice mills. The Commissioner suspended the resolution of the board but Government

Taxation: The departments were given the power to determine the rate at which taxes ought to be levied by the local authorities. In other words, local authorities had to obtain the previous sanction of Government not only for the levy of the tax but also for the rate at which it ought to be levied.

Under the Municipal Act, 1850, the sanction of Government was necessary for the levy of income tax. Under the Municipal Act, 1884 the section of Government was necessary to exempt any building used for charitable purposes from taxation. In 1894, another restriction was imposed namely that if the assessment in any municipality was insufficient or inequitous Government could order the revision of assessment by an assessor within a period stipulated by it.

Under the Municipal Act, 1884, the sanction of the Commissioner was necessary for the rates at which tolls ought to be levied on ferries, roads, and bridges. A similar provision was made in the succeeding Municipal Acts. But the Municipal Act, 1956, removed all these restrictions and the municipal boards have now freedom to levy taxes without a reference to outside authorities.

Under the Local Boards Act, 1915, the sanction of Government was necessary for the levy of a tax for the construction of railways and tramways and for the levy of tolls on bridges and roads. Under, the Panchayat Act, 1959, Government may require a gaon panchayat or an anchalik panchayat to take necessary action to augment its resources to such an extent as Government considers it necessary to discharge its duties. If the local authority fails to carry out the orders, Government may direct the gaon or anchalik panchayat to levy any of the taxes or fees specified in the Act. Even then if it fails to levy the tax or fees or fails to enhance the rate of tax, Government may levy or enhance the tax. It can also suspend the levy or the imposition of any tax by the board.

Apart from all these means of control it must also be recognised that Government plays another part, a part which does not involve the exercise of power. The Departments and the District

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rescinded it on the ground that the time for intervention had already passed because the mills had already been constructed. Further the area in which the mills were constructed was an industrial area.

Officers play the part of a friend of the local authorities. Sir Gwilym Gibbon in his evidence before the Royal Commission on Local Government said "Not the least important part of the duties of the central department is that of the general guide, philosopher and friend to local authorities. A central department accumulates a very wide range of experience and information in the course of its ordinary work and it can render no more useful service to local authorities than to place their experience freely at their disposal, preferably in an informal manner, especially if the advice is backed by a sound and easily comprehended body of statistical information. It cannot be too strongly emphasised that the friendly interchange of views between Central and local officials is essential if the best results are to be obtained." It is true that the advice rendered is not bassed on legal authority. Generally, the advice is rendered by means of circular letters, directing the attention of the local authorities to any new legislation. The circular letters, may contain the recommendations of the Commissions and of the committees and the views of government on them. It may contain model schemes.

Another important method by which advice is rendered is by the publication of the annual report which contains appreciation or criticism of administration of a particular service. Sometimes special reports are published by some departments.

In another way also Government may act as the friend of the local authorities, viz., by securing them the powers and wherewithal to carry through a policy. But the most effective method by which advice is rendered is by personal contact. Over a cup of tea the Inspector in a friendly way may gently persuade a local authority to accept his advice and give up its hostile attitude. The Inspector is in a position to render effective advice because he has first hand knowledge what is happening elsewhere.

Conclusions : We have so far noted the various means by which Government exercises control over the local authorities. In this State centralised administrative control was developed during the 19th century. The village or town was merely a part of the general administration and its authorities were appointed by Government. And yet it must be said that central supervision and control over the local authorities throughout the 19th

century was very little because the district officers were the chairman and ex-officio members of the boards. The first step towards decentralization was introduced by the Reform of Mayo in 1870. Some powers were given to the local authorities and the Reforms of 1882, 1917, and 1935, further liberated the local authorities from the yoke of State control and supervision. Notwithstanding these steps which recognise a sphere of action which is independent of that of the State Government the old idea that local authorities are a part of the general system of administration still influences their relations with Government. This is seen in the power possessed by Government in regard to several matters. Chapter VIII of the Municipal Act, 1956 and Chapter VI of the Panchayat Act, 1959 impose several restrictions on local authorities. Agai,n the Municipal Act, 1956, authorised Government not only to disapprove the selection of their important officers by the local authorities but also to appoint them. Even today, Government has power of life and death over the local authorities. It has power to create and abolish local authorities to suspend their decisions to appoint chairmen and modify their budgets.

Theoretically all this is true. But it must be admitted that the control of Government over the local authorities was not effective for obvious reasons. The machinery devised for the purposes was not adequate or efficient. The Commissioners and the Deputy Commissioners who were the inspecting officers of all the local authorities, evinced little or no interest in their affairs. For instance, in 1889-90, the Deputy Commissioner, Sibsagar did not exercise his statutory powers of control over the Sibsagar municipal board. As a consequence, the municipal affairs were mismanaged. In one case the Deputy Commissioner of an important district, who was also the chairman of the Station Committee allowed the municipal boards to be extravagant in its expenditures. The local authority was on the brink of financial bankruptcy. Government had to give special advance to run the administration. In 1912-13, again, only three Deupty Commissioners, of the plain districts inspected the municipal offices. Earle, therefore, laid down that every Deputy Commissioner must inspect every municipal board at least once in a year thoroughly. But the Deputy Commissioner gave a deaf ear to this order. In 1914, Earle again

noted that the inspection of the local authorities by the Deputy Commissioner was irregular and depended upon the idiosyncracies of the individual officer. He therefore, directed that the Deputy Commissioner ought to inspect all the local authorities which their jurisdiction at least once in a year. The Deputy Commissioners were personally held responsible for the prompt settlement of audit objections. But the old state of affairs continued.

With a view to make supervision effective, the Government of India suggested in 1918, the creation of a central committee consisting of some elected members of the legislature to deal with local and municipal affairs. The Secretary of State rejected the proposal and suggested the formation of Local Government Board which would exercise the same powers as those possessed by the Local Government Board in England. The Board would not hamper the authority of Government nor of the local bodies. On the otherhand, it would render full advice and supervise the work of the municipal and local boards. The Government of India supported the proposal. But the Government of Assam did not express its opinion on it. The result was that the supervision of the local authorities continues to be ineffective.

The effectiveness of supervision depends upon the number of Inspectors appointed for the purposes, the skill and competency of the Inspectors, the frequency of inspection and the adequacy of the legal means of securing information from the local authorities. The number of inspectors required depends upon a number of elements such as the number of institutions to be inspected and the distance to be travelled and so on. Further, the inspection of educational and public health institutions require the employment of various types of inspectors. But Government did not take all these factors into consideration. Even today, the machinery provided for the inspection of the local authorities in this State is of the horse and buggy age. Let us consider the machinery provided for the inspection of the educational institutions. The number of Inspectors was not adequate. Some of the persons employed for the purpose were ignorant of their duties. The inspecting pandits employed by the Education Department for the inspection of primary schools is a classical example. Again, the Deputy Commissioner and the Sub-Divisional Officer are not the persons to

whom the general inspection of the local authorities ought to be entrusted because they have already enough revenue and magisterial work.

Let us take the administrative machinery provided for the inspection of panchayats. There are four Assistant Development Commissioners popular known as Zonal Officers. They are supposed to supervise the panchayats. But as we had already noted they are like generals without an army. Each Zonal Officer is in charge of thirty Anchalik Panchayats and 650 gaon panchayats. There are of course 23 sub-divisional planning officers who are expected to assist the zonal officers. Here again it may be noted that these so called sub-divisional planning officers work under the dual control of the Deputy Commissioner and of the President of the Mohkuma Parishad. Further, they are the executive officers of the mohkuma parishad. For all practical purposes they are tied down to the mohkuma parishad. As a consequence, the Assistant Development Commissioners are unable to inspect every local authority within their Jurisdication. It is therefore suggested that the Sub-Divisional Planning Officer may be designated as the executive officer of the mohkuma parishad. For the inspection of panchayats the inspectorate may be organized as follows. At present there is a Director of Panchayats. He may be designated as Inspector-General of Panchayats. His main function must be the formulation of policies and secure the necessary approval for them from the authority concerned. Below the Inspector-General there should be a Deputy Inspector-General, one in Upper Assam and another in Lower Assam. Below the Deputy-Inspector-General, there should be an Inspector in each sub-division and he may be held responsible for the inspection of municipal offices also. .Below the Inspector there may be Assistant Inspector of Panchayats for the inspection of panchayats only.

If this suggestion is accepted the local authorities at the lower level should not be supervised by the higher bodies. In other words, the gaon panchayat should not be supervised by the anchalik panchayat. For, it has been found that supervision by elective bodies was not effective and helpful. The members of the elected body at the higher level are themselves party leaders. They have their own party differences. So supervision of the local authorities should be entrusted to some

other agency which would take a more objective view of things. Moreover, the lowest bodies resent the idea of supervision by the higher elected bodies. In most democratic countries the work of the lower democratic bodies is not supervised by the higher democratic bodies. That work is being done by an inspectorate independent of these bodies.

There is also another reason why the supervision of the local authorities should be entrusted to an inspectorate specially trained for the purpose. For instance, elementary schools or middle schools must maintain a certain standard of efficiency. The members of the Anchalik Panchayat have no technical knowledge to find out whether these standards have been maintained. So it is essential that the inspection of schools should be entrusted to the Director of Public Instruction.

Again, if the supervision of the gaon panchayats is entrusted to the anchalik panchayats, there is bound to be conflict between the two particularly if their political complexion is different.

Dissolution according to the Oxford Dictionary means that the existing board is dissolved. But according to the Act, it continues to exist until a new board comes into existence. The Act does not prescribe the period with which elections have to be held. By allowing the chairman and the board to function until a new board comes into being opportunities are provided to perpetuate the mischief already done. A board is dissolved only when its administration is found to be highly unsatisfactory. It is meaningless to say that the board is dissolved when it actually functions. The consequences of dissolution or supersession ought to have been the same namely the existing board ought to go out of existence instantaneously with this difference. In the case of boards superseded they should be placed under the control of a special officer appointed for a period of one year. The boards which are dissolved ought to be reconstituted immediately after dissolution, say within a period of one month. In other words, the voters ought to be given an opportunity to elect a new board. Dissolution is a mild punishment for mismanagement whereas supersession is a sledge hammer which is applied to a board that it suffering from gangrene which cannot be cured with lavender.

Again, a distinction ought to be made between dissolution

and supersession. The Municipal Act, 1956, makes a distinction but not the Panchayat Act, 1959. Supersession is a more drastic step than dissolution. They are the alternative remedies and resort to any one of them depends on the extent to which the local authority abuses the powers vested in it.

Again, the maximum period during which a board may be superseded ought to have been mentiond. In the case of panchayats the period has been mentioned. But that was not done in the case of municipal boards. From the provisions of the Act, it appears that Government can keep a municipal board under supersession for any length of time.

But then the question arises whether Government ought to possess this power. The advocates of local autonomy plead that Government influenced by extraneous consideration is likely to use this power for political purposes. Further, it is the negation of the principle of local autonomy. All this is theoretically true. But students of comparative government have to anchor their boats near the shore lines of reality instead of sailing on the unchartered seas of political philosophy. A close study of all the cases of supersession and dissolution induced the present writer to come to the conclusion that this power should be there. It was never abused for political reasons. The boards were superseded or dissolved only when the administration deteriorated considerably. If Government had not been endowed with this power much harm would have been done to society. Whenever Government exercised this power it interpreted the will of the people of the locality or the realities of the situation more correctly than the local authorities and saved them from ill-considered and harmful activities.

PART VII CONCLUSIONS

Lead me from the unreal to the Real
Lead me from darkness to Light
Lead me from death to Immortality

CHAPTER XXV

CONCLUSIONS

A study of local self-government in Assam stretching over a period of one hundred and thirty years in some detail must necessarily lead us to certain conclusions. The assumption that the lilliputiae government is more democratic than big government is not correct. The devotees of agrarian democracy argue that government to be democratic must be close to the people. Little government is close to the people because it is smaller in size. The smaller the unit of Government and the larger their number, the greater the degree of democracy. If we closely examine this statement we find that it is based on inadequate evidence. Size alone is not the factor that determines the character of government. There are other meaningful criteria that hvae to be taken into account, the nature of popular partcipation, the representatives of the local authorities, the basis of franchise and the periodicity of election.

Another assumption is that local self-government is the most effective training ground of democracy. It is the school room of democracy. Here is a doctrine which is adorned by many a poiltical scientist, though it is a questionable one. The assumption is that the citizen learns from participation in the affairs of local government. But what does he learn and how does he learn? What is the curriculum offered? Who are the members of the teaching staff? What is the material used for teaching and learning? The answers to some of these questions are that the citizens learn only about local affairs. His teachers are part-time politicians and part-time functionaries. The course of study is village shop politics. The value of this

kind of knowledge, imparted in this manner, to students of democracy is doubtful. A citizen so schooled in this manner may develop a parochial mental outlook. He will not graduate with a broader outlook. He will have no vision. He will not look beyond his nose. On the otherhand he is likely to develop a permanent bias against big government. So it may be said that local government is like a single teacher elementary school.

The next assumption is that persons trained in local government are likely to be successful legislators. This assumption is valid upto a point. Of the 105 members of the Assam Legislative Assembly, as many as 50 of the 76 for whom information was collected, had no experience in local government. The present Chief Minister (Bimala Prasad Chaliha) was not a non-commissioned officer of the municipal army. This does not dispose of the question. It suggests that the idea is a questionable one, and that it requires re-examination.

Further, local authorities are not representative. The procedures are not democratic. The local authorities consist of representatives elected by small constituencies and these representatives view things through local eyes. That is, roads and bridges, hospitals and dispensaries, wells and pumps are to be installed according to the needs of the members. Further, the local authorities very often adopt measures just to satisfy the wishes of the members. The interests of the whole are sacrificed in favour of individual election districts. The particularistic programmes of a half dozen persons constitute a sound general programme for the whole area So it may be said that a local body is like a congress of ambassadors.

It is also said that a local authority is a corporation. It has nothing whatever to do with general political interests and therefore party politics are out of place there. The problem in a town or a panchayat are not political. Municipalities are mainly concerned with the laying of pipes, with the construction of buildings and with the provision of sanitary arrangements and the like. Logically, this is true. So utopian politicians sketch a new society in which there would be no political parties. But this is a vain flying in the face of hard facts. We may enquire whether there is any relationship between the national issues and municipal issues. It is true there is no connection

between non-alignment and water-supply. Again, there is no difference between the congress and the communist parties so far as municipal programme is concerned. The usual slogans of economy and efficiency and good management are accepted by all the parties. No party is willing to advocate waste, inefficiency and extravagance. If there is no difference in programme between the political parties, it may be asked where is the need for parties. Superficially there is no need. But we have to note that issues do not create parties. Issues are more frequently the pretext than the cause of partisanship. That profound statesmen Alexander Hamilton said "All communities divide themselves into few and the many. The first are the rich and the well born, the others the mass of the people." Distribution of property is the most fundamental cause of parties and factions. This is true today. So the parties are inevitable in modern society.

The other conclusions are, first, the local authorities were not independent as to their composition. That is, the local authorities were not freely elected as the English local authorities are. The latter organise and supervise their elections. The elections are not conducted by an agent of the central government. But in Assam, some of the members of the local authorities both urban and rural were appointed by Government. The election of members of the rural boards was at all times controlled by Government. Even in regard to urban boards, some measure of official interference existed.

Second, the English local authorities are independent as to their domestic procedure. It is true that there are some purposes for which they must set up committees. There are some offices which they must fill up. Otherwise the English local authorities manage their own affairs. They appoint and dismiss their officers and servants. They determine their duties and conditions of service. But in Assam the local authorities are not independent as to their domestic procedure. They must appoint certain standing committees. They must set up joint committees. They must observe the procedure prescribed by Government for the transaction of business at their meetings.

Third, the local authorities have no freedom to appoint any [illegible] like for certain offices. Not [illegible] they [illegible] power to [illegible] them at will. They are [illegible]

officers for certain posts if directed by the State Government. Or Government itself can appoint certain officers without the consent of the local authority concerned.

Fourth, the local authorities are not completely independent in fiscal matters. They cannot levy and collect taxes as they like. Even today, the levy of tolls and the rates at which they ought to be levied require the sanction of Government. Further, the budget of the local authorities has to be submitted to government for its approval. Government may amend the budget if adequate provision is not made for any service. But in Britain the local authority is the ultimate authority and no department of the Central Government can strike out an item out of it or insert items of its own

Fifth, the local authorities in Assam, are not independent as units of administration In other words in several respects they are the agents of Government. Government may transfer any service to the control and management of the local authority.

Inspite of these restrictions it must be admitted that local authorities in Assam are largely autonomous They have considerable discretion in the matter of appointment of municipal personnel in the management of their services and in several other things. Compared with the local authorities in the Madras and Andhra States, the local authorities in Assam have considerable discretion. The difference is due to the fact that in Madras and Andhra the local authorities are held in right reins by the inspectorate. In Assam, there is no separate inspectorate.

Although there was no effective supervision over the local authorities, there was no direct pillaging of the Treasury. There was no doubt some amount of corruption. The business of government offers splendid opportunities to the people who are in control of administration to further their own interests. All sorts of appointments fall vacant and by securing appointments for relatives, supporters and friends, a politician may reap the harvest. Further, there are numerous little bribes that come in the way of those who wield power. So it is practically impossible to eliminate corruption. After all, we cannot change human nature. Only thing that can be done is to see that corruption does not become intolerable. The corruption would have been less [illegible]

that good men are not elected as members. At present most municipal boards are infested with persons of low caibre. It is true that the membership of the rural boards is better than that of the urban boards. Still the problem remains. Local administration can improve only if men of good intent and good judgment are elected as members. No stream rises higher than the source. No elected body will be stronger than the men and women who are elected as members.

The members of parliament and of the legislative Assembly ought not to be members of the local authorities. Their inclusion will decidedly undermine the representative and democratic character of the anchalik panchayats and mohkuma parishads. It is, however, suggested that the some of the district officers should attend their meetings because a number of matters relating to their departments are likely to come up for discussion and it is essential that these officers should be present at their meetings to render advice.

The term of office should be five years. From the financial point of view it will be of help to the local authorities if the general elections are held once in five years. Again, it will enable the members to plan and execute certain schemes. However, as the term of office of the State Legislative Assembly is also five years care must be taken to see that there is no clash between the elections for the State Assembly and those for the local authorities. It will also save the individual from the trouble of going to the polling booth at frequent intervals.

If the local authorities are to function effectively there should be a strong committee system. There must be a number of standing committees to deal with major subjects. Powers must be delegated to them and the local authority ought not to interfere with the discretion of the committees except on rare occasions. But in this State the utility of the committee system was not appreciated. As a consequence the local authorities had no effective committee system. So it is suggested that it should be made obligatory on the part of the local authorities to constitute a certain number of standing committees for particular subjects and that powers should be delegated to them. No one will function responsibly unless powers are given to him. It is also suggested that provision ought to be made for the co-option of outsiders, because most of the committees consist of

persons who have no knowledge of the subject dealt with by the committee. Further, there is a reservoir of knowledge and experience which can be utilised without additional expenditure.

There should be no overlapping in the functions entrusted to the local authorities. The functions entrusted to a local authority must be those which it is capable of performing. From this it follows that they ought not to be entrusted with all the development functions but only those which are municipal in character. They should not be entrusted with the management of co-operative societies as the function of a co-operative society is distinct and limited in character. But the panchayat must be an instrument for the implementation of land reforms. Again, the panchayats ought not to be entrusted with the collection of land revenue but they may be associated with the maintenance of land records.

At present local authorities are not concerned with educational administration. Education, particularly elementary education is clearly among those services which call for unified administration over quite a large area. It is not advisable for the local bodies to concern themselves with colleges where higher education is imparted under the active direction and control of the Universities There is no such expert body in charge of schools. In each area a single body should be made responsible for drawing up a comprehensive scheme for elementary and secondary schools. Not merely the planning but also the major part of the actual management of the educational institutions must be the responsibility, in any area, of one and the same public authority. The authority that is made responsible for this range of services must then be large enough to conduct them effectively and to satisfy the varying needs. The panchayats will not be able to discharge this function. Large bodies like the Anchalik Panchayats are necessary. They must be recognised as the main body responsible for the administration of elementary and secondary education. The District Education Officer may continue to be the State officer and he must work in co-ordination with the President of the Anchalik Panchayat and under his control and supervision. This does not mean that the anchalik panchayat should manage all schools even those which are managed by private bodies. But where satisfactory standards are not observed by private schools the local boards should

take over their management with the consent of the Ministry of Education. So there is no need to entrust the administration of education to a separate body like the school board. This system which is in vogue in this State has not worked satisfactorily. We may also note that this experiment was once tried and found to be unsuitable in the old Madras Presidency.

The machinery devised for the determination of the annual rental value of private buildings is absolutely unsatisfactory. The chairman or members of the local authority ought not to have been entrusted with this business. Efficient financial administration depends on three principles. First, it must be divorced from politics because elective officers are but slightly immune from gusts and passions of popular approval or prejudices. They do not possess the faculty required for the work. As a consequence they accept inadequate returns with little question. Thus good administrative work cannot be done by a staff which is immediately dependent on the electorate and its representatives. The staff of the fiscal department should be absolutely independent of local changes, of feelings affections and politics generally.

Second, the assessment of property has become a complex affair. Precision in assessment which is essential can be attained only if persons who have special knowledge and training in the valuation of properties are employed. In other words, the assessment of properties should normally be one of the functions of the executive authority. The quinquennial revisions may be entrusted to an outside authority. It is suggested that there should be a board of assessors for the whole state appointed and controlled by Government. The members of the board should be deputed to undertake the general revision of property tax. The argument that the members of the board may not know local conditions and therefore they are not competent to undertake the work is not tenable. The experience and knowledge of a member of the Board of Assessors will certainly enable him to determine what is a fair rent. Above all, he is likely to be more objective than the chairman in the discharge of his functions.

The assessments fixed by the assessor may not always be correct. Provision ought to be made for the review of the assessments fixed by the assessor. But the power to hear appeals ought to be entrusted to a committee consisting of three persons and one of them may be a member of the municipal board. The

other two must be officials who have knowledge of the subject, the executive officer and a member of the board of assessors. The Assessment Committee as at present constituted is unsatisfactory. As a matter of fact the Assessment Committee in some of the municipal boards had done great harm to the financial position of the board.

The collection of taxes was generally poor because there was no effective supervision over it. The chairman did not evince interest in the matter. It is suggested that this business should be entrusted to the executive officer.

For historical and other reasons the grant-in-aid system as it exists at present is not based on scientific principles. It is suggested that two principles may constitute the basis of the grant-in-aid system, the block grant and the allocated grant systems. A combination of these two principles may bring into existence some amount of equalization which is essential. If equalization is to be achieved a comprehensive plan must be prepared for each local authority and the bassi of grant-in-aid must be the differecne between the total need and the total ability of each area. Before giving grants two factors will have to be taken into account, ability to raise additional funds and the necessity for expenditures. Having taken these two factors into account, grants must be given in such a manner that most would be given to those districts which have the lowest ability and whose expenditure is necessarily high and less to those with greater ability and less necessity for expenditure.

The principles that may be adopted for the distribution of grant-in-aid may be first, there should be the basic general purposes grant for all small local authorities for a reasonable period say, five years. While fixing the general purposes grant, population, area, resources and needs should be taken into account. The grant amount should be adequate enough to enable the local authority to discharge its responsibilities. In addition to the basic grant there ought to be promotional grant subject to the condition that the services concerned are maintained at a prescribed level of efficiency.

There should be an advisory committee consisting of some members of the Legislative Assembly with the Minister for Local Self-Government as its chairman to advise the Ministry as regards the distribution of grant-in-aid. The advice rendered by the

board may not be binding on the Ministry. The responsibility for the administration of the grant-in-aid must be placed squarely on the Minister. But a wise Minister will consult the board and try to carry it with him as far as practicable. The existence of such a committee will induce the Minister to be fair and objective in the distribution of grant-in-aid.

The urban population is increassing since the inauguration of the Five Year Plans. There has been steady increase in the number of new towns while the older ones have vastly expanded Conurbation is becoming unmanageable. The process of industrialization and urbanization will accelerate the progress of urbanization. As as a consequence the problems that urban local authorities have to face may become complex and complicated. The growth of some of the towns in Assam was largely unplanned and therefore haphazard. All these things point out that municipal administration must be efficient. Otherwise death and disease, sorrow and suffering will be immense. If the administration is to be efficient the municipal personnel must be efficient. But the fact is that the local gavernment personnel in this state as in others states is not efficient although a substantial amount is spent on it. Efficient civil service demands the existence of certain conditions. The first is that the recruitment of civil service should be entrusted to the Public Service Commission.

This has already been done in some States. In Uttar Pradesh appointments to posts carrying an initial salary of Rs. 200 and above have to be made in consultation with State Public Service Commission. In Punjab, the recruitment of municipal employees with a salary of Rs. 150 and above has to be made through the Public Service Commission. In Bombay, appointments in corporations to posts carrying an initial salary of Rs. 300 require consultation with the Public Service Commission. Thus the trend is towards the selection of officers on grounds of merit. So it is suggested that the Service Commission should select candidates by examination and prepare a list of candidates district wise. The local authorities shall select candidates from the list furnished by the Commission. From this it follows that the chairman should not be entrusted with this power. Apart from the fact that the recruitment of personnel for governmental busines has become highly complex, one of the standing complaints against the chairmen of the local authorities was that

communalism and favouritism influenced him in the matter of appointments. The only remedy to cure this evil is to entrust this business to the Public Service Commission.

Whatever may be the methods adopted for the recruitment of local government personnel, there may be square pegs in round holes. So the principle of probation ought to be enforced rigidly. Otherwise several persons will be condemned for life to an occupation for which they have no aptitude.

There is need for uniform scales of pay for all the servants of local and municipal boards in the State. Variations will bring into existence discontent. Uniformity has been established in this matter in the southern states like Andhra and Madras. Government may assume power and fix uniform scales for all servants from jamedar to the Executive Officer. Further, provision should be made for the periodic readjustment of the salary drawn to the purchasing power of the rupee.

Opportunities should be provided to lively personalities to move about both horizontally and vertically in the service. If a person finds himself in the same position in which he found himself a decade ago discontent comes into existence. Discontent is the mother of three evils, indifference, inefficiency and corruption. The local authorities do not at present provide opportunities to their servants for promotion. How this situation is be remedied ? The entire local government service, both urban and rural, should be treated as one service. All similar posts-accountants, superintendents, sanitary inspectors, health inspectors and so on should be treated as one service. Each of them may be divided into several grades and vacancies arising in the higher grades may be filled up from the lower grades provided the candidates have the required qualifications. A list of the candidates eligible for promotion should be prepared by the Inspector General of Local and Municipal Boards, in consultation with the executive officers. The list should be revised annually and promotions should be made accordingly.

If the servants of the local authorities are to be prevented from becoming part-time politicians there should be periodical transfers from place to place. Such a provision enables them to become truly [illegible] in politics.

Every superior servant of the local authorities should have the right of appeal against an order of [illegible] by the

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Executive Authority. Such a provision creates a sense of security in the local government personnel.

Above all every servant who retires honourably should be insured against penniless pauperism in his old age. The best insurance appears to be a combination of two principles, pension and provident fund. Every servant must contribute a certain percentage of his salary to the fund every month and the accumulations in the fund will be refunded to him at the time of his retirement so that he may have capital to construct a house and settle down. The pension will protect him from hunger and starvation.

Opportunities for conflict between the public and the municipal civil service, are frequent. If the civil service is to discharge its functions without fear or favour it must be placed under the control of the executive officer.

The executive officer should be non-political, permanent and professional. He must be recruited by the Civil Service Commission and appointed by Government. The need for a permanent executive has arisen because local administration under political executive is deteriorating. The executive officer, should be held responsible for the efficient administration of the local authority. He must be the supreme executive authority occupying the position of a pyramid among the peaks. The departmental heads must work under his control.

The executive officer should have a certain amount of independence within the limits to be imposed by law. He must not have the fear of responsibility. He must not be like Nicias the Athenian General whose incompetence and incredible bungling led to the downfall of Athens. Like Nicias, he should not remember that his existence depends upon the votes of the members. Then only he will be able to act with courage and conviction.

From the above it follows that the legislative and policy making functions should be separated from the purely executive functions. A combination of these two in the hands of one and the same prson is the very definition of inefficiency. The deliberative and policy making functions should be the sphere of the elected wing of the local authority. The administration of the policies should be entrusted to the executive officer.

The local government personnel should be given some kind

of training and for this purposes, Government should either establish a training institute or the University should establish courses of study for local government. This has been done by some of the British and American Universities. Or the course of study in the department of Political Science of the Gauhati University may be oriented in such a manner that it may provide some kind of training to those who desire to take up local government service.

Although Government and its agencies were endowed with enough powers of control in practice there was no real or effective control over local administration. The reasons are obvious. The machinery provided for the purpose was inadequate. The Commissioner and the Deputy Commissioner had neither the time nor interest in the supervision of local administration. So local authorities were left to themselves to a great extent. There was no one to see whether the orders of Government were carried out there was no effective means by which the aspirations and feelings of the local authorities could be conveyed to the seat of power. It is therefore suggested that a special machinery should be brought into being, organized hierarchically for the general supervision of the local authorities. At the top there should be an Inspector-General of Local Authorities. He should be assisted by three Deputy Inspector-General, in charge of three divisions. In each sub-division there should be an Inspector of Panchayats. The Inspector General should concern himself with the formulation of policies and in securing the legislative sanction for them. The Deputy Inspector-General, should concern himself with the inspection of municipal boards, town committees and the offices of the Inspector of Panchayats. He may also inspect some of the anchalik panchayats and mohkuma parishads. The Inspector of Panchayats should concern himself mainly with the inspection of panchayats.

The supervision of the local authorities at the lower level should not be entrusted to the local authorities at the higher level. That is, gaon panchayats should not be supervised by the anchalik panchayats because the members of the elected bodies of the higher level are themselves party leaders. They have their own party differences which are likely to influence them in the inspection of local authorities.

Distinction ought to be made between dissolution and supersession. The consequences of dissolution or supersession ought to be the same, namely, that the existing board ought to go out of office instantaneously with this difference. In the case of boards superseded they should be placed under a special officer for a specified period. The boards dissolved should be reconstituted within a period of one month. During this period it should be under the control of a special officer appointed by Government. The period of supersession should not exceed three years.

Local authorities have not made any systematic attempt to explain to the general public what they are doing. There was not even a sporadic effort to arouse public interest in the work of local administration. So the general ignorance and apathy about local administration is not surprising. A local authority can justify its existence only when it can induce the citizens to interest themselves in its activities In other words, it must create right attitude towards public duties, the formation of habits of helpful constructive participating citizenship. Therefore, every local authority ought to make the rate-payers understand that his interest in the proper and efficient administration of his locality does not end with the dropping of a ballot paper once in three years. The fact that about fifty percent of the voters do not take the trouble of doing even that is itself an indication of the need for the development of civic interest in the citizens by the local authorities.

How to create civic consciousness ? First, the local authority should enable every citizen to get all the information he requires. For this purpose there must be an information bureau. The bureau should not only desseminate all the necessary information but also gather all the criticism levelled against its administration and give suitable replies to them. Second, the local authority may issue with each demand notice a brief summary of the schemes which they have in hand or which they contemplate in the near future. Third, the celebration of annual days and health weeks and baby shows should be organised. There are also other means by which news may be communicated to the public. Whatever may be the means, publicity is very essential if local goverament is to be a success. Even if

all these reforms are introduced the future of local government depends upon the quality of membership. So what Alexander Pope says appears to be partly true.

> For forms of government let fools contest
> Whate'er is best administered is best.

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